July 1, 1985

THE NEW YORKER

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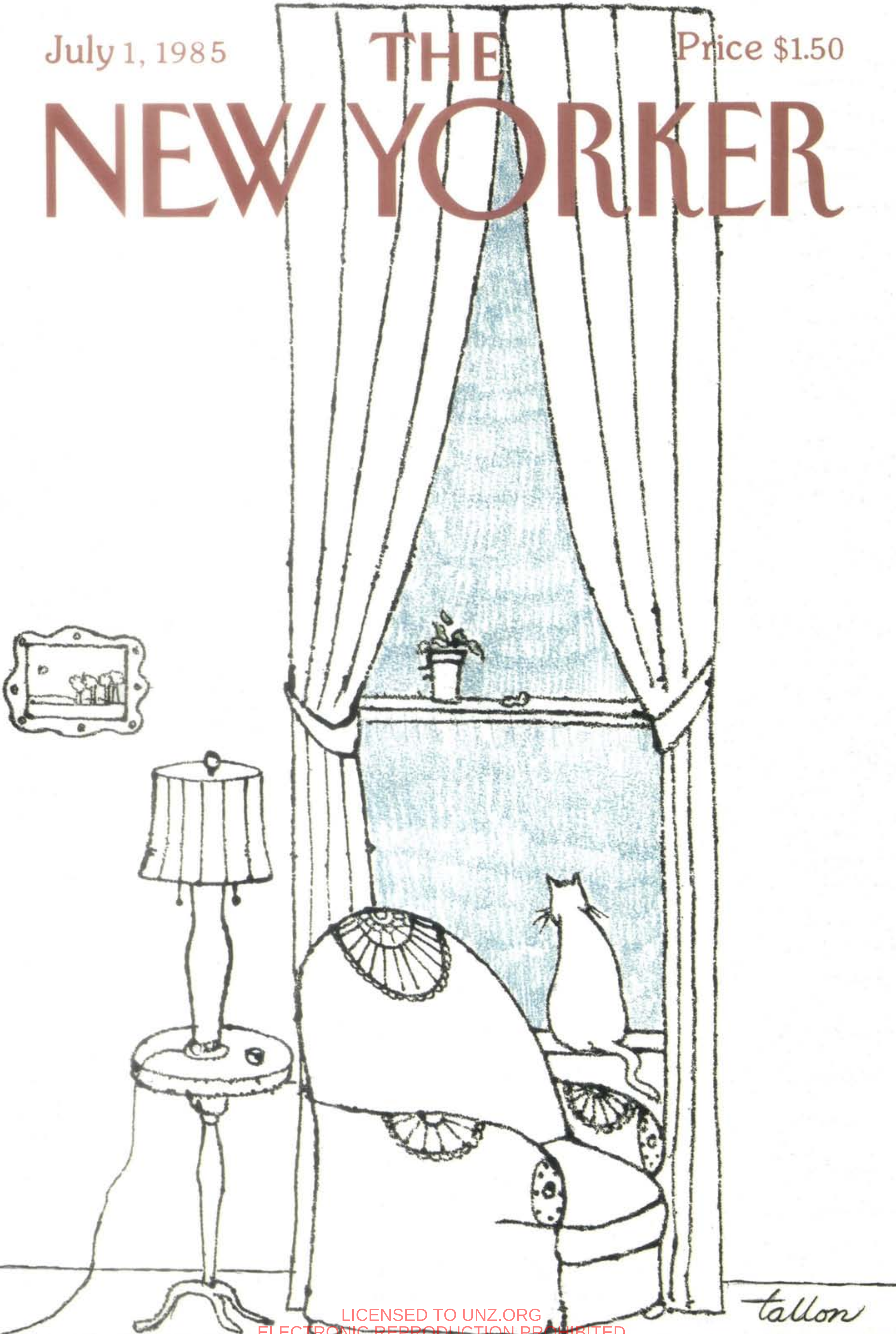

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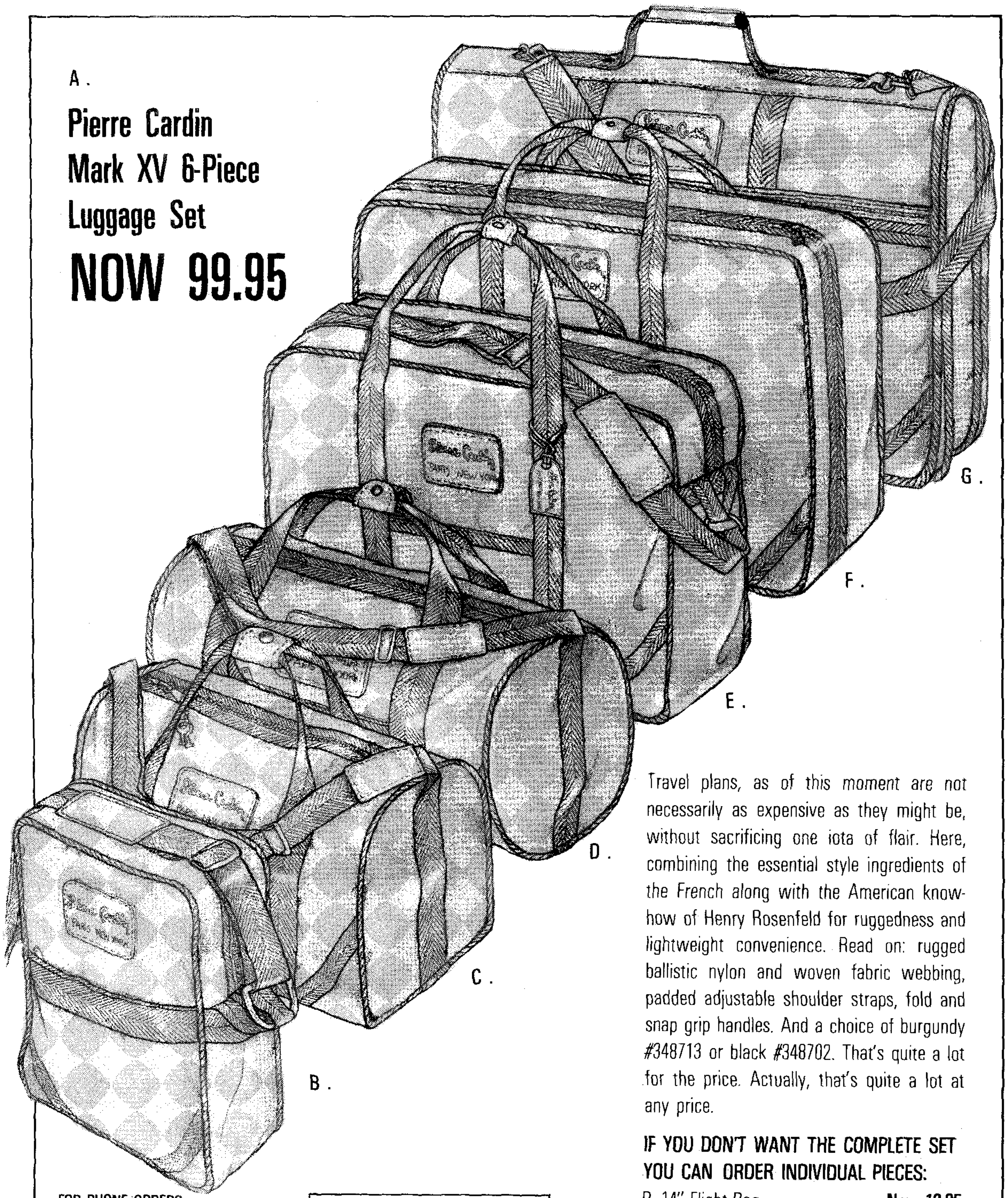

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GOINGS ON ABOUT TOWN

A CONSCIENTIOUS CALENDAR OF EVENTS OF INTEREST

THE THEATRE

PLAYS AND MUSICALS

Aren't We All?—Claudette Colbert, Rex Harrison, and a superb assortment of supporting actors bring back to merry life the Frederick Lonsdale drawing-room comedy of 1923. (Reviewed in our issue of 5/13/85.) (Brooks Atkinson, 256 W. 47th St. 719-4099. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

Arms and the Man—A self-indulgent production of Shaw's early comedy, in which the director and all the members of the cast except Kevin Kline dare to patronize the author. (6/10/85) (Circle in the Square, 50th St. west of Broadway. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

As Is—This touching play by William M. Hoffman concerns a personable young homosexual who is afflicted with AIDS, and is also a documentary of sorts about his milieu in this city. The lively, impressionistic performance was directed by Marshall W. Mason, and the acting by the large cast, several of whom appear in multiple roles, is just right. With Jonathan Hogan and Jonathan Hadary. (3/25/85) (Lyceum, 149 W. 45th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.)

Big River—William Hauptman and Roger Miller have drawn an agreeably sentimental musical out of "The Adventures of Huckleberry Finn," and Mark Twain in Heaven has reason to be satisfied with the results. (5/13/85) (Eugene O'Neill, 230 W. 49th St. 246-0220. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

Biloxi Blues—A further chapter in the life story of Eugene Morris Jerome, a literary stand-in for the author, Neil Simon. The time is 1943, Eugene is in the Army, and his adventures in Biloxi are truly not to be believed. Matthew Broderick and the rest of the cast are first-rate. The director, Gene Saks, has worked hard to squeeze the last drop of humor out of this peculiar fruit. (4/8/85) (Neil Simon, 250 W. 52nd St. 757-8646. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.)

Childhood and **For No Good Reason**—Whatever Nathalie Sarraute's contribution to French letters may be, her contribution to the theatre—as made manifest in these two one-acters adapted from her work—is zero. (Samuel Beckett, 410 W. 42nd St. 594-2826. Wednesday through Saturday at 8. Matinées Wednesday and Saturday at 2:30, and Sunday at 3. Closes Sunday, June 30.)

Curse of the Starving Class—A revival of a play by Sam Shepard. (Intar, 420 W. 42nd St. 279-4200. Wednesdays through Saturdays at 8, and Sundays at 7:30. Matinées Saturdays at 2 and Sundays at 3. Closes Sunday, July 7.)

Dames at Sea—A revival of a musical by Jim Wise (score) and George Haimsohn and Robin Miller (book and lyrics). (Lambs, 130 W. 44th St. 997-1780. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

Doubles—A number of coarse jokes about Jewish husbands and Jewish wives fill an evening that purports to be about four middle-aged tennis players in Connecticut. Written by David Wiltse and starring Austin Pendleton, John Cullum, Ron Leibman, and Tony Roberts. (5/20/85) (Ritz, 219 W. 48th St. 582-4022. Nightly, except Sundays and Thursday, July 4, at 8. Matinées Wednesdays and Saturdays at 2; special matinée Thursday, July 4, at 3.)

S	M	T	W	T	F	S
			26	27	28	29
30	1	2	3	4	5	6

The Foreigner—A very funny play by Larry Shue, with a super performance by Anthony Heald and good performances by every single member of the company, most notably by Kevin Geer as a lovable half-wit. Jerry Zaks was the admirable director. (11/19/84) (Astor Place Theatre, 434 Lafayette St., near Astor Pl. 254-4370. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

Hannah Senesh—A monologue based on the diaries and poems of the Zionist heroine. Lori Wilner is the monologuist. Written and directed by David Schechter, with music by Steven Lutvak, Elizabeth Swados, and Mr. Schechter. (Cherry Lane, 38 Commerce St. 989-2020. Tuesdays through Thursdays, and Friday, June 28, at 8, and Saturdays at 7 and 10. Matinées Wednesdays at 2:30, and Sundays at 2:30 and 5:30.)

I'm Not Rappaport—Herb Gardner's rather synthetic, though often entertaining, comedy about two old men who share a bench in Central Park is given an expert performance by Cleavon Little and Judd Hirsch. (6/17/85 (American Place, 111 W. 46th St. 869-4731 Tuesdays through Saturdays at 8. Matinée Wednesdays and Saturdays at 2, and Sundays at 3.)

The King and I—Yul Brynner asserts that this i his farewell appearance in the Rodgers an Hammerstein musical, in which he has give *more than four thousand performances.* Wel worth seeing, and not as a historic even alone. (1/14/85) (Broadway Theatre, Broadway at 53rd St. 239-6200. Wednesda through Saturday at 8, and Sunday at 7 Matinées Wednesday and Saturday at 2 Closes Sunday, June 30.)

Ladies and Gentlemen, Jerome Kern—Delore Hall in *a revue of the composer's songs* written for stage and screen. (Harold Clurman 412 W. 42nd St. 594-2370. Wednesday through Saturdays at 8, and Sundays at 7 Matinées Saturdays and Sundays at 3.)

Leader of the Pack—A torrent of early-sixtie songs, written by Ellie Greenwich and he collaborators. The songs are affixed to a soap opera version of Miss Greenwich's life, an Miss Greenwich herself puts in an unexpected and rather touching appearance (4/22/85) (Ambassador, 215 W. 49th St 239-6200. Tuesdays through Saturdays at 8 Matinées Wednesdays and Saturdays at 2 and Sundays at 3.)

Lies and Legends: The Musical Stories of Harr Chapin—A musical entertainment usin works by the late composer. (Village Gate 160 Bleecker St. 473-7270. Tuesdays throug

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Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

The Lisbon Traviata—Terrence McNally's play about the end of a homosexual love affair, accompanied by operatic recordings and gossipy jokes about opera stars. Mr. McNally is a clever writer, but his bitchy dialogue soon grows tiresome. With Seth Allen. John Tillinger directed. (Theatre Off Park, 28 E. 35th St. 679-6283. Wednesday through Friday at 8, and Saturday at 7 and 10. Closes Saturday, June 29.)

The Marriage of Bette and Boo—Christopher Durang's very funny, mordant satire on a Catholic "Marriage à la Mode," with the playwright himself as the luckless son of the couple being examined. The performance, under Jerry Zaks' direction, is absolutely first-rate. (5/27/85) (Public, 425 Lafayette St. 598-7150. Nightly, except Mondays, at 8. Matinées Saturdays and Sundays at 3.)

Mayor—A musical based on the best-seller of the same name by Edward I. Koch. With a score and lyrics by Charles Strouse and a book by Warren Leight. (Top of the Gate, 160 Bleecker St. 982-9292. Tuesdays through Fridays, except Thursday, July 4, at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3; special matinée Thursday, July 4, at 5.)

Negro Ensemble Company—A spirited revival of the fine **ceremonies in dark old men,** by Lonne Elder III, with Douglas Turner Ward again doubling as director and leading man. (6/10/85) (Theatre Four, 424 W. 55th St. 246-8545. Wednesday through Friday at 8; Saturday at 8:30; and Sunday at 7. Matinées Saturday at 3 and Sunday at 2:30. Closes Sunday, June 30.)

The Normal Heart—An interminable, trashy non-play about AIDS, and its victims in the homosexual community of this city, who are compared to the Jews under the Nazis. The names Hitler, Roosevelt, Morgenthau, and, eventually, Mayor Koch are dropped with equal contempt. The evening is an insult to its audience and, what is far more serious, to the sufferers from this dreadful, seemingly hopeless disease. (Public, 425 Lafayette St. 598-7150. Nightly, except Mondays, at 8. Matinées Saturdays and Sundays at 3.)

The Odd Couple—Neil Simon has turned his comedy about a pair of ill-matched men into a non-comedy about a pair of women the like of which has never been seen on earth, much less on Riverside Drive. (6/24/85) (Broadhurst, 235 W. 44th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

One Man Band—A musical starring James Lecesne, with a score by Marc Elliot and Larry Hochman, lyrics by Mr. Elliot, and a book by Mr. Lecesne. (South Street Theatre, 424 W. 42nd St. 279-4200. Wednesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

Orphans—A melodrama, by Lyle Kessler, about two young brothers—one a street thief and pickpocket, the other an apparent dimwit—and an older mobster who takes over their house and their lives. The first act works quite well, the second is merely serviceable, but what really counts is the performance, under the dynamic direction of Gary Sinise. The actors are Kevin Anderson, Terry Kinney, and John Mahoney, and the show is an import from the Steppenwolf Company of Chicago. (5/20/85) (Westside Arts, 407 W. 43rd St. 541-8394. Tuesdays through Fridays at 8, and Saturdays at 7 and 10. Matinées Wednesdays at 2 and Sundays at 3.)

Penn & Teller—A sublime combination of conjuring and comedy. Penn Jillette does the talking; Teller is silent. (5/6/85) (Westside Arts, 407 W. 43rd St. 541-8394. Wednesdays and Thursdays at 8; Fridays at 8 and 11; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.)

The Return of Herbert Bracewell—The admirable Milo O'Shea is lightly disguised as a failed actor in his eighties, who recites speeches and scenes from the parts he never got, in this monologue with interruptions, lightly disguised as a play. Frances Sternhagen, as the actor's wife, is the tactful interrupter. Geraldine Fitzgerald directed. (6/3/85) (Chelsea Playhouse, 519 W. 23rd St. 243-0992. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7:30. Matinées Sundays at 3. Closes Sunday, July 7.)

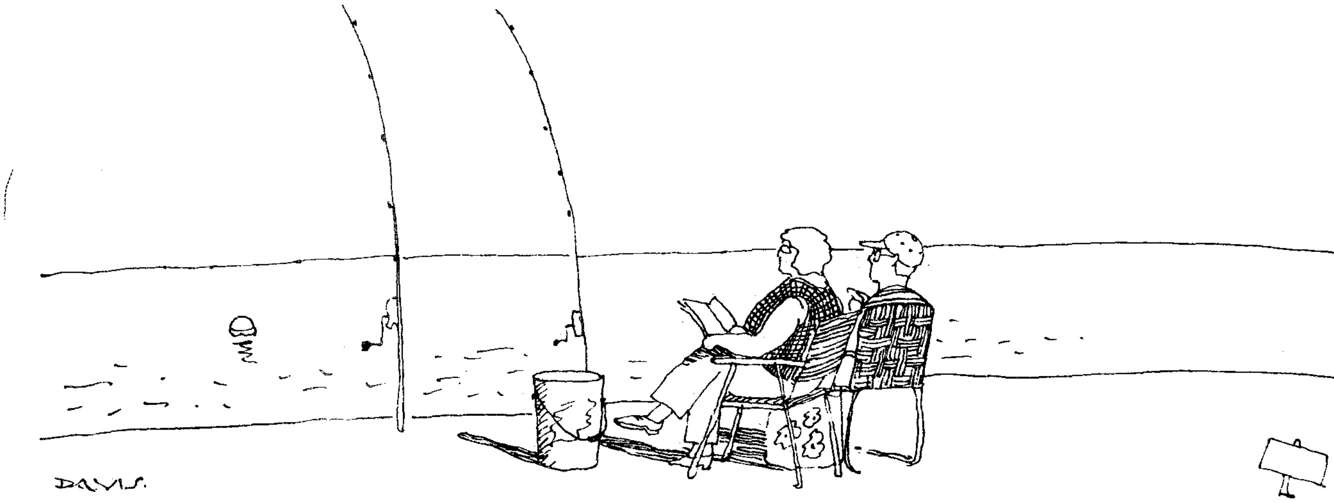
Singin' in the Rain—A musical based on the 1952 film, with a book adapted by Betty Comden and Adolph Green from their original screenplay, and songs by Nacio Herb Brown and Arthur Freed. Directed and choreographed by Twyla Tharp. Previews through Monday, July 1. Opens officially on Tuesday, July 2. (Gershwin, 51st St. west of Broadway. 586-6510. Nightly, except Sundays, at 8; opening-night curtain at 6:30. Matinées Wednesdays and Saturdays at 2.)

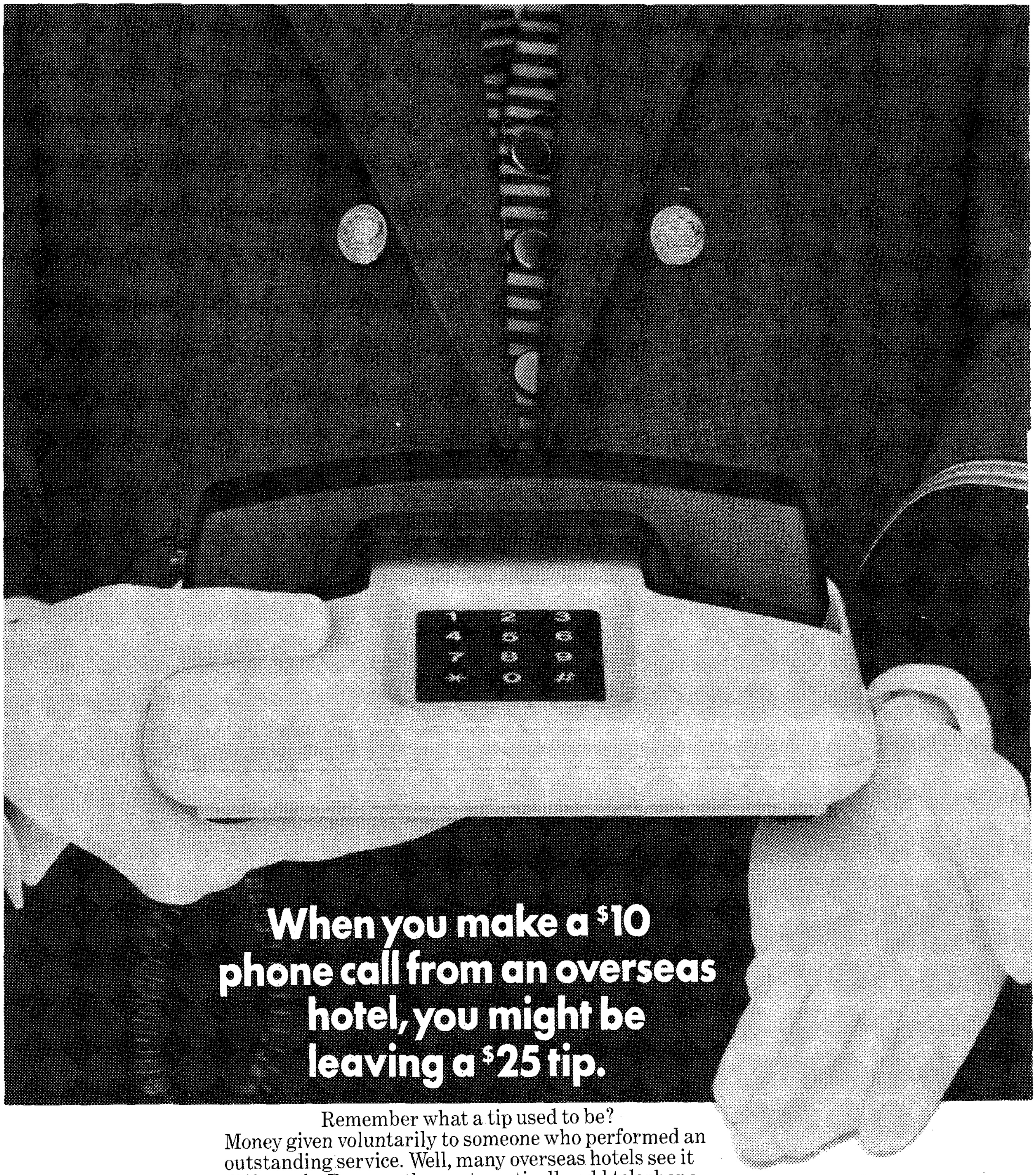
3 Guys Naked from the Waist Down—John Kassir, Scott Bakula, and Jerry Colker play three standup comedians who leave New York for Hollywood in this satiric and most original musical comedy. Mr. Colker wrote the book and lyrics, and Michael Rupert wrote the bountiful, engaging score. The effective scenery, costumes, and lighting were by Clarke Dunham, Tom McKinley, and Ken Billington. (2/18/85) (Minetta Lane, 18-22 Minetta Lane, east of Sixth Ave., between W. 3rd and Bleecker Sts. 420-8000. Tuesdays through Fridays at 8; Saturdays at 7 and 10:15; and Sundays at 7. Matinées Sundays at 3.)

Tracers—The eight good actors are Vietnam veterans, and the effective play is based on actual war experiences. It was conceived and directed by John DiFusco, and it is accompanied throughout by rock music. (2/4/85) (Public, 425 Lafayette St. 598-7150. Nightly, except Mondays, at 8. Matinées Wednesdays and Sundays at 3. Closes Sunday, July 7.)

The Voice of the Turtle—A revival of John van Druten's 1943 comedy, with Chris Sarandon, Patricia Elliott, and J. Smith-Cameron. (Roundabout, 100 E. 17th St. 420-1883. Tuesdays through Saturdays at 8. Matinées Wednesdays, Saturdays, and Sundays at 2.)

Long Runs—**brighton beach memoirs:** Neil Simon looks back with fondness upon his youth in the gloomy thirties. (46th Street Theatre, 226 W. 46th St. 221-1211. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.) . . . **la cage aux folles:** A musical with George Hearn and Van Johnson as a pair of tenderhearted middle-aged lovers presiding over a drag-queen night club in Saint-Tropez; the production is one of the most beautiful—and extravagant—ever to reach Broadway. Jerry Herman wrote the music and lyrics; the book is by Harvey Fierstein. (Palace, Broadway at 47th St. 757-2626. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.) . . . **cats:** Some twenty poems about cats by T. S. Eliot, set to music by Andrew Lloyd Webber. A mighty spectacle about mighty little, owing its effectiveness to Trevor Nunn's direction and to the sets and costumes by John Napier. (Winter Garden, Broadway at 50th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.) . . . **a chorus line:** A group of young dancers audition for a handful of chorus jobs in a show not yet in rehearsal, and by the time the evening is over we know everything about all of them. (Shubert, 225 W. 44th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.) . . . **dreamgirls:** Traditional musical-comedy hokum, directed and choreographed by Michael Bennett at his usual frantic pace. The enormous cast is young, tireless, and talented. (Imperial, 249 W. 45th St. 239-6200. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.) . . . **the fantasticks:** 10,472 performances so far. (Sullivan Street Playhouse, 181 Sullivan St., at Bleecker St. 674-3838. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7:30. Matinées Sundays at 3.) . . . **fool for love:** Sam Shepard's play—mysterious, funny, and beautiful—is about two battling, loving lovers in a motel room at the edge of the Mojave Desert and about many other matters as well. Deborah Strang and George Gerdes have the leading roles. Mr. Shepard directed. (Douglas Fairbanks, 432 W. 42nd St. 239-4321. Tuesdays through Fridays at 8; Saturdays at 7:30 and 10; and Sundays at 8. Matinées Thursdays at 3. No performances Tuesday through Sunday, July 2-7.) . . . **42nd street:** A musical based on the old Warner Brothers movie and by no means an improvement on it. Directed and choreographed by the late Gower Champion. (Majestic, 245 W. 44th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2, and Sunday, June 30, at 3.) . . . **isn't it romantic:** A spirited production of Wendy Wasserstein's sometimes painful but always witty comedy about a pair of female "best friends" at age twenty-eight, and especially about the trials of one of them, Janie Blumberg. (Lucille Lortel, 121 Christopher St. 924-8782. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7. Matinées Sundays at 3.) . . . **little shop of horrors:** Taking off from Roger Corman's 1960 horror quickie about a man-eating plant, this exuberant, jokey musical is wholly free of camp. The score is by Alan Menken, and Howard Ashman directed and wrote the book and lyrics. Martin P. Robinson designed the menacing plant. (Orpheum, 126 Second

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GOINGS ON ABOUT TOWN

Ave., at 8th St. 239-6200. Tuesdays through Fridays at 8; Saturdays at 7 and 10; and Sundays at 7:30. Matinées Sundays at 3.) . . . **OH! CALCUTTA!:** A collection of short sketches that purport to give us a refreshing view of sex and do not. (Edison, 240 W. 47th St. 757-7164. Mondays through Fridays at 8; Saturdays at 7 and 9:30; and Sundays at 7. Matinées Sundays at 3.) . . . **SUNDAY IN THE PARK WITH GEORGE:** A beautiful and often very touching musical by Stephen Sondheim and James Lapine, based on the life (partly imaginary) of Georges Seurat. With Harry Groener and Maryann Plunkett. (Booth, 222 W. 45th St. 239-6200. Nightly, except Sundays, at 8. Matinées Wednesdays and Saturdays at 2.) . . . **THE TAP DANCE KID:** A didactic musical in which we learn that middle-class ambitions do not deserve to impede talent. A few rousing dance scenes and the rest is ho-hum. (Minskoff, 45th St. west of Broadway. 869-0550. Tuesdays through Saturdays at 8. Matinées Wednesdays and Saturdays at 2, and Sundays at 3.)

MISCELLANY

FORBIDDEN BROADWAY 1985—A musical satire of Shubert Alley denizens. The lyrics to the song parodies are by Gerard Alessandrini. (Palsson's Upstairs, 158 W. 72nd St. 595-7400. Tuesdays through Thursdays at 8:30; Fridays and Saturdays at 8:30 and 11:30; and Sundays at 8:30.)

DANCE

DANCE THEATRE OF HARLEM—Final performances of the engagement—Wednesday, June 26, at 8: "La Mer" (New York première) and "Giselle." . . . ¶ Thursday, June 27, at 8: "Caravanserai," "A Streetcar Named Desire," and "Dougla." . . . ¶ Friday, June 28, at 8: "La Mer," "A Streetcar Named Desire," and "Caravanserai." . . . ¶ Saturday, June 29, at 2: "La Mer," "A Streetcar Named Desire," and "Stars and Stripes." . . . ¶ Saturday, June 29, at 8: "Dougla," "Fall River Legend," and "Stars and Stripes." (Metropolitan Opera House. 362-6000.)

TANGO ARGENTINO—A troupe of thirty dancers, singers, and musicians, appearing here for the first time. (City Center, 131 W. 55th St. 246-8989. Wednesday through Saturday, June 26-29, at 8, and Sunday, June 30, at 3 and 7:30.)

NIGHT LIFE

(A highly arbitrary listing, in which bold-face type is used to pick out a few of the more notable performers in town. . . . ¶ Musicians and night-club proprietors live complicated lives that are subject to last-minute change; it is therefore always advisable to call ahead.)

ALGONQUIN HOTEL, 59 W. 44th St. (840-6800)—The wonderful **JULIE WILSON** is singing Cole Porter songs in the Oak Room through Saturday, June 29. Shows at nine-fifteen and eleven-fifteen. Buck Buchholz presides over the Rose Room keyboard Sundays from five-thirty to eleven. Dining.

BLUE NOTE, 131 W. 3rd St., near Sixth Ave. (475-8592)—A dark, large, carpeted club with deep-blue tablecloths and a curvy bar. Pianist **MICHEL PETRUCCIANNI'S** trio and guitarist **JOHN ABERCROMBIE** take turns with guitarist **JIM HALL'S** trio through Sunday, June 30; beginning Tuesday, July 2, fiery Latin-jazz flutist **DAVE VALENTIN** will share the bill with alto saxophonist **PAQUITO D'RIVERA.** Sets begin after nine. Trumpeter **TED CURSON** conducts after-hours (real late, after two in the morning) jam sessions every night but Monday. Dining.

BOTTOM LINE, 15 W. 4th St., at Mercer St. (228-6300)—A large-venue pop, rock, folk, and jazz club with, thank heavens, tables and chairs. Wednesday, June 26, Lone Justice; Thursday, June 27, Carol MacDonald and Kit McClure; Friday and Saturday, June 28-29, **NRBQ** and K. D. Lang; and Monday and Tuesday, July 1-2, Chicago-blues singer and harmonica wizard **JAMES COTTON.** Shows Sundays through Thursdays at eight and eleven, and Fridays and Saturdays at eight-thirty and eleven-thirty. Dining.

BRADLEY'S, 70 University Pl., at 11th St. (228-6440)—A real New York bar; it has dark wood panelling and some very good piano-bass teams. **TOMMY FLANAGAN** and **GEORGE MRAZ** hit it through Saturday, June 29, and starting Monday, July 1, **WALTER DAVIS, JR.,** and John Lee will take charge for six nights. On Sunday, June 30, **BILL MAYS** and **FRED HERSCH** will play duo piano. Music from nine-forty-five. Dining.

CBGB & OMFUG, 315 Bowery, at Bleecker St. (982-4052)—Exposed rafters, weathered, splintery wood posts, decrepit neon beer signs, and a general ramshackle feel. All this and rock and roll, too. Monday is showcase night. Shows nightly from long after nine-thirty.

EDDIE CONDON'S, 144 W. 54th St. (265-8277)—The surviving home for traditional small-band jazz on the block. Trumpeter **BILLY BUTTERFIELD** will play with the resident musicians through Thursday, July 4. Music nightly from eight-thirty. Dining.

FAT TUESDAY'S, 190 Third Ave., at 17th St. (533-7902)—A velvet-and-mirror-walled below-stairs jazz stars' room. Altoist **PHIL WOODS** directs a quintet through Sunday, June 30; on Thursday, July 4, guitarist **BIRELI LAGRENE,** a young Gypsy player in the Reinhardt tradition, will begin performing with his trio. Mondays are the property of guitarist **LES PAUL'S** trio. Sets begin Sundays through Thursdays at nine, and Fridays and Saturdays at eight. Dining.

FOLK CITY, 130 W. 3rd St., near Sixth Ave. (254-8449)—The schedule: Wednesday, June 26, Peter Holsapple, the Wild Seeds, and Paul Metsa; Friday, June 28, Casselberry & Duprée and Margret Roadknight; Saturday, June 29, **DAVE VAN RONK;** Tuesday, July 2, the Philanders and White Bread in a benefit performance; Wednesday, July 3, the Vipers and the Raunch Hands; and Saturday, July 6, folksinger **SUZANNE VEGA.** Mondays are hootenanny nights. Shows usually begin at eight-thirty and eleven-thirty.

GREGORY'S, 1149 First Ave., at 63rd St. (371-2220)—Through Sunday, June 30, Alicia Sherman sings with the Peter Madsen duo; Wednesday through Saturday, July 3-6, are reserved for singer Kitt Moran, pianist Mike Moran, and bassist John Arbo; on Mondays pianist Baba Motta and bassist John Belzaguy team up; and Tuesdays belong to guitarist **CHUCK WAYNE'S** trio. All these groups begin about ten.

HANRATTY'S, 1754 Second Ave., at 91st St. (289-3200)—A spiffy back-room haunt for traditional-jazz pianists and their admirers. **DAVE MC KENNA** can be heard through Saturday, June 29, and on Tuesday, July 2, **DICK WELLSTOOD,** a wonderful stride-piano specialist, will return. Sundays are claimed by Keith MacDonald, and Mondays by John Colianni. Music Sundays through Thursdays from eight-thirty, and Fridays and Saturdays from nine. Dining.

KNICKERBOCKER SALOON, 33 University Pl., at 9th St. (228-8490)—A nice room that has resumed its piano-bass policies. Pianist **BILL MAYS** works with bassist **RON CARTER** through Saturday, June 29; on Tuesday, July 2, pianist **ROGER KELLAWAY** and bassist **MICHAEL MOORE** will take over the premises. Music from nine-thirty. Dining.

LONE STAR CAFÉ, 61 Fifth Ave., at 13th St. (242-1664)—No, this isn't the Department of Rockabilly at the New School. It's a degentrified Schrafft's where the authentic Texas ambience is more representative of Austin than of Dallas. The lineup: Wednesday, June 26, **ROGER MC GUINN** and Aztec Two-Step; Thursday, June 27, country singer **BOBBY BARE;** Friday, June 28, the Bud Moffett band; Saturday, June 29, the Bud Moffett band and Six Gun; Sunday, June 30, Head East; Monday, July 1, Dr. Buzzard's Savannah Band; Tuesday and Wednesday, July 2-3, singer-lyricist **RUBEN BLADES;** and Thursday, July 4, guitarist **JORMA KAUKONEN.** Music from about eight-thirty nightly. Dining.

MICHAEL'S PUB, 211 E. 55th St. (758-2272)—**MILT HINTON'S** 75th-Birthday Jazz Party is the program here, with Mr. Hinton celebrating on bass, **BOBBY ROSENGARDEN** on drums, and a bunch of visiting musician friends playing their respects. Music at nine-thirty and eleven-thirty. On Monday nights from nine-thirty to midnight, Woody Allen is likely to show up to play celebrity clarinet with a New Orleans-style sextet. Dining. Closed Sundays.

MIKELL'S, 760 Columbus Ave., at 97th St. (864-

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8832)—A longtime music hangout on the upper West Side. The musicians: Wednesday and Thursday, June 26-27, the BMF Sextet; Friday and Saturday, June 28-29, pianist **MICHEL CAMILO** and his vibrant sextet; Sunday, June 30, Desire; and Monday, July 1, **JUMP STREET.** Music from about ten. Dining. Closed Thursday, July 4.

RAINBOW ROOM, 30 Rockefeller Plaza. (757-9090)—Drummer **PANAMA FRANCIS & THE SAVOY SULTANS** play irresistible swing music to Lindy to through Sunday, June 30. On Tuesday, July 2, Glenn Zottola will come in with his dance orchestra. Music Tuesdays through Thursdays from seven to one; Fridays and Saturdays from eight to two; and Sundays from six to midnight. Dining.

RITZ, 119 E. 11th St. (254-2800)—The mostly rock-and-roll roster: Wednesday, June 26, the Stranglers; Friday, June 28, the Egyptians, Show of Hands, and the Cut Aways; Saturday, June 29, rock-and-roll pathfinder **BO DIDDLEY;** and Friday, July 5, Redds & the Boys and Hot Cold Sweat. Shows usually begin after eleven. Dancing.

SEVENTH AVENUE SOUTH, 21 Seventh Ave. S., at Leroy St. (242-4694)—Part of the jazz, jazz-rock, and R. & B. schedule: Wednesday, June 26, Othello, a steel-drum band; Thursday through Saturday, June 27-29, pianist **LARRY WILLIS;** and Sunday, June 30, pianist **ARMEN DONELIAN.** Music from nine-thirty.

SOUNDS OF BRAZIL, 204 Varick St., at W. Houston St. (243-4940)—A great place to listen to mostly Brazilian music—Brazilian-jazz groups, samba bands, and all-percussion ensembles that perform *carnaval* music—and it tends to be swirling, heady, wonderful stuff. On its busy weekends, the club feels like the rush hour in Rio. Wednesday, June 26, Meditations; Thursday, June 27, **KIMATI DINIZULU & THE KOTOKO SOCIETY;** Friday and Saturday, June 28-29, **PÉ-DE-BOI;** Wednesday and Thursday, July 3-4, Alceu Valença; and Friday and Saturday, July 5-6, **LOREMIL MACHADO & THE SARAVA BAHIA BAND.** Music from ten. Dining. Closed Mondays and Tuesdays.

SWEET BASIL, 88 Seventh Ave. S., at Bleecker St. (242-1785)—This knotty-pine night club keeps bringing in proven jazz players, and the place keeps on being crowded. Bassist **CHARLIE HADEN** heads his Liberation Music Orchestra through Sunday, June 30; on Tuesday, July 2, trumpeter **TERUMASA HINO'S** quartet will move in. Mondays are the property of the **GIL EVANS ORCHESTRA.** Shows from about ten. Dining.

TRAMPS, 125 E. 15th St. (777-5077)—Your simple, basic blues and R. & B. hangout. Thursday and Friday, June 27-28, have been assigned to **BUCKWHEAT ZYDECO.** Music after ten.

VILLAGE GATE, 160 Bleecker St. (475-5120)—In the big downstairs room, there's salsa after nine on Mondays: on July 1, **HECTOR LAVOE, BOBBY RODRIGUEZ Y LA NUEVA COMPANIA,** and saxophonist **RICHIE COLE** will all be here. . . . ¶ Meanwhile, out on the Terrace, pianist **RAY BRYANT** is on hand through Sunday, June 30; on Tuesday, July 2, pianist **JUNIOR MANCE** and bassist **MARTY RIVERA** will arrive for a two-month stay. Jazz harpist **DAPHNE HELLMAN** is also present on Tuesdays. Music from nine-thirty.

VILLAGE VANGUARD, 178 Seventh Ave. S., at 11th St. (255-4037)—Perhaps the most famous basement in the world, now fifty years old, has been described by Max Gordon, the wise proprietor and resident father figure, as "a good joint that people like to come to—thank God." Tenor saxophonists **FRANK FOSTER** and **FRANK WESS** head a quintet—pianist **KENNY BARRON,** drummer **MARVIN SMITH,** and bassist **RAY DRUMMOND**—through Sunday, June 30; on Tuesday, July 2, pianist **MAL WALDRON** will begin piloting a fivesome. On Sunday, June 30, beginning at two in the afternoon, there will be a jam session featuring **JON FADDIS, TOMMY FLANAGAN, LEE KONITZ, GEORGE MRAZ,** and others. Mondays are **MEL LEWIS BIG BAND** Blast-Off Nights. Music from ten.

WEST END, 2911 Broadway, at 113th St. (666-8750)—Past the steam tables of piping-hot student food, beyond the pinball machines is a room full of swing music, Latin jazz, and hard bop. Tenor saxophonist **HAROLD OUSLEY** and his combo will be present through Saturday, June 29; on Sunday, June 30, the **COUNTSMEN,** the Basie alumni band headed up by saxophonist-singer **EARLE WARREN,** will begin an eight-night stand. Music from about nine.

ZINNO, 126 W. 13th St. (924-5182)—A speakeasy in the twenties, Reno Sweeney in the seventies, this ground-floor town-house space is now a SoHo-sleek and spacious bar and restaurant with a musical passageway between them. Pianist Jean Matisse and bassist **MAJOR HOLLEY** collaborate through Saturday, June 29. Music from eight. The club will be closed for vacation Sunday, June 30, through Sunday, July 7.

JAZZ / FOLK / ROCK CONCERTS, PERSONAL APPEARANCES, ETC.

KOOL JAZZ FESTIVAL—Final performances. The concerts are taking place in various halls around the city, on a Staten Island ferry, at the Stamford Center for the Arts in Stamford, and at the Performing Arts Center in Saratoga Springs. For Saratoga listings, see page 14, under Music in the Country. For information about tickets to anything, anywhere, call 787-2020. Wednesday, June 26, at 5: Sasha Daltonn trio. (Carnegie Recital Hall.) . . . ¶ Wednesday, June 26, at 8: Nina Simone, with the George Adams–Don Pullen quartet. (Avery Fisher Hall.) . . . ¶ Wednesday, June 26, at 8: Wynton Marsalis quintet, the Terence Blanchard–Donald Harrison quintet, Kent Jordan, and the Dirty Dozen Brass Band. (Carnegie Hall.) . . . ¶ Wednesday, June 26, at 8: David Chertok's "Jazz Legends on Film," featuring Zoot Sims, John Coltrane, Duke Ellington, Louis Armstrong, and others. (Kaufmann Concert Hall, 92nd Street Y, Lexington Ave. at 92nd St.) . . . ¶ Thursday, June 27, at 5: Ronnell Bright, solo piano. (Carnegie Recital Hall.) . . . ¶ Thursday, June 27, at 8: Chick Corea trio and Steps Ahead. (Avery Fisher Hall.) . . . ¶ Thursday, June 27, at 8: A salute to Ethel Waters, with Nell Carter, Bobby Short, Rhetta Hughes, and others. (Carnegie Hall.) . . . ¶ Thursday, June 27, at 8: Curlew and Microscopic Septet. (St. Peter's Church, Lexington Ave. at 54th St.) . . . ¶ Friday, June 28, at 5: Roland Hanna, solo piano. (Carnegie Recital Hall.) . . . ¶ Friday, June 28, at 7 and 11: Ray Charles Show '85 and the Commodores. (Avery Fisher Hall.) . . . ¶ Friday, June 28, at 8: Alceu Valença, Touré Kunda, and Flora Purim & Airto. (Carnegie Hall.) . . . ¶ Friday, June 28, at 8: Mal Waldron & Jana Haimsohn and the New Winds. (St. Peter's Church.) . . . ¶ Saturday, June 29, at 10:30, 1, and 3:30: On the Staten Island ferry—Dr. John and the Dukes of Dixieland. . . . ¶ Saturday, June 29, at 5:30: John Lewis, solo piano. (Carnegie Recital Hall.) . . . ¶ Saturday, June 29, at 8: Bob James & Free Flight. (Avery Fisher Hall.) . . . ¶ Saturday, June 29, at 8: Johnny Otis Show, Etta James and her trio, and John Mayall's Bluesbreakers. (Carnegie Hall.) . . . ¶ Saturday, June 29, at 8: Woody Herman All-Stars. (Stamford Center for the Arts, Stamford.) . . . ¶ Saturday, June 29, at 8: Hamiett Bluiett and Jason Hwang Glass Shadows. (St. Peter's Church.) . . . ¶ Sunday, June 30, at 8: A tribute to Louis Armstrong, with Ruby Braff and Dick Hyman. (St. Peter's Church.) Once again, for information about tickets to any of the above, call 787-2020.

LES MISÉRABLES BRASS BAND—With Lester Bowie. (Public Theatre, 425 Lafayette St. 598-7150. Monday, July 1, at 8.)

JAZZ CENTER OF NEW YORK—Friday, June 28, at 9:30 and 11: George Coleman quartet. . . . ¶ Saturday, June 29, at 9:30 and 11: Jimmy Heath sextet, in a tribute to Charlie Parker. (380 Lafayette St. 505-5660.)

IRVING PLAZA—Friday, June 28, at 10: Carnival, with the Clintons. . . . ¶ Saturday, June 29, at 10: Black Flag, with St. Vitus & Tom Trescolli's Dog. (17 Irving Pl., at 15th St. 477-3728.)

ART

(Unless otherwise noted, galleries are open Mondays through Fridays, from around 10 or 11 to between 5 and 6. They will be closed on Thursday, July 4.)

GALLERIES—UPTOWN

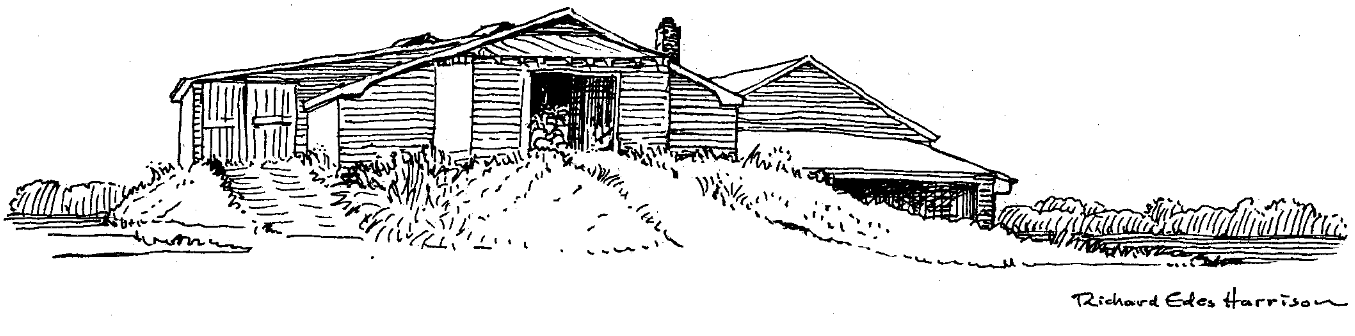
YVONNE PÈNE DU BOIS—Paintings from the past four decades, ranging from waterfront scenes and still-lifes to abstractions. Several show the studios in which she worked with her father, Guy. Through Wednesday, July 3. (Graham, 1014 Madison Ave., at 78th St.)

MICHAEL HEIZER—Paintings, sculptures, drawings, and photographs in a show that coincides with his installation at the Whitney Museum. Through Sept. 14. (Fourcade, 36 E. 75th St. Closed Mondays and Friday, July 5.)

J. MACDONALD—Paintings: Large silhouettes of human figures and animals, filled in with slashes of color laid on with a palette knife. Through Friday, July 5. (Sachs, 980 Madison Ave., at 76th St.)

JOSEPH WHEELWRIGHT—A two-gallery show of sculptured figures whose poses were dictated by the shapes of the tree branches and small boulders from which they were made. (Stone, 48 E. 86th St. Through Tuesday, July 2. . . . ¶ Rentschler, 72 Greene St. Through Saturday, July 6. Closed Mondays; open Saturdays.)

GROUP SHOWS—At the **MC COY,** 19 E. 71st St.: Multilayered abstract drawings by Michael Hurson, figure and head studies by Grégoire Müller, and surreal pastels of eyes and noses by Alan Turner. Through July 15. (Open Wednesday through Friday, June 26-28.) . . . **SILBERBERG,** 16 E. 79th St.: Paintings and sculptures by the Spanish artist Antoni Clavé, works on paper by the Yugoslav artist Nada Vitorovic, small sculptures by Henry Moore, and recent etchings by Francis Bacon. Through Saturday, June 29. . . . **VANDERWOUDE TANANBAUM,** 24 E. 81st St.: Surrealist paintings and sculptures by seven young artists, Cheryl Laemmle, Mike Berg, and Nick Ghiz among them. Through July 31. (Closed Friday, July 5.) . . . **WILLARD,** 29 E. 72nd St.: Paintings and sculptures by nine gallery artists, including Lois Lane, Judith Shea, and



Richard Edes Harrison

Ken Price. Through July 12. (Closed Friday, July 5.)

GALLERIES—57TH STREET AREA

Alice Forman—Colorful still-lifes in oil. Through July 18. (Kornblee, 20 W. 57th St. Closed Mondays and Friday, July 5; open Saturday, June 29.)

Alberto and Diego Giacometti—Elegant tables, chairs, lampstands, andirons, and so on, made of cast bronze by the sculptor and his brother. Through July 26. (Marisa del Re, 41 E. 57th St. Closed Friday, July 5.)

Oliver Johnson—Paintings, pastels, and drawings of felines. Through Aug. 30. (Felicie, 141 E. 56th St. Closed Friday, July 5.)

Gary Kahn / Catherine Koenig—Freestanding geometric sculptures in painted wood or Cor-ten steel. / Large seashells, derby hats crowned with bridal wreaths, and trompe-l'oeil collages, all painted in egg tempera or pastels. Through July 19. (Heidenberg, 50 W. 57th St.)

Robert Pittenger / Biff Elrod—Paintings of elongated figures in poses evocative of Balthus, plus Italian landscapes. / Three heads—two male and one female—are the center of interest in many of these paintings, some of which are set in a movie house. Through Saturday, June 29. (Siegel, 24 W. 57th St.)

Kurt Schwitters (1887-1948)—Collages, assemblages, and sculptures from all periods of the artist's career in a show that complements his retrospective at the Museum of Modern Art. Through Friday, July 5. (Marlborough, 40 W. 57th St. . . . ¶ More of Schwitters' collages are at La Boetie, 9 E. 82nd St.)

Janet Stayton—Tiger lilies, tulips, and irises stand out in this group of floral monotypes. Through July 19. (Heesy, 50 W. 57th St. Closed Friday, July 5.)

Joanne Stryker—Outsize pastel drawings of architectural ornaments and of figures from ancient Roman friezes. Through Saturday, June 29. (Tatistcheff, 50 W. 57th St.)

Group Shows—At the **blum helman**, 20 W. 57th St.: Big, powerful figurative paintings in wax and oils by Bruno Ceccobelli and Jeff Gompertz, and big, powerful paintings of rather droopy tulips, in acrylics, by José María Sicilia. Through July 26. (Closed Friday, July 5.) . . . **de nagy**, 41 W. 57th St.: Figurative oil paintings by Jim Butler, David Humphrey, and Ephraim Rubenstein and sculptures by Italo Scanga. Through Wednesday, July 3. . . . **david findlay, jr.**, 41 E. 57th St.: Figure drawings by nine realists. Through July 12. . . . **frumkin**, 50 W. 57th St.: Paintings and constructed works, each based on either an outline or silhouette. Contributors to the show include Luis Cruz Azaceta, Robert Warrens, and Dan Rice. Through Aug. 16. (Closed Friday, July 5.) . . . **galerie st. etienne**, 24 W. 57th St.: Landscape paintings and works on paper by van Gogh, Grandma Moses, Winston Churchill, Utrillo, and other European and American artists. Through Sept. 13. (Closed Mondays and Friday, July 5.) . . . **getler-pall-saper**, 50 W. 57th St.: Of the six artists here, two are making their first New York appearance—Heinrich Nicolaus, a German whose paintings seem to poke fun at Borofsky, and Peter Stokolosa, a local talent who paints small, meaty, impastoed abstractions. Through Wednesday, July 3. (Closed Mondays.) . . . **kennedy**, 40 W. 57th St.: Traditional American still-lifes from the eighteenth century to the twentieth. Through July 15. . . . **protetch**, 37 W. 57th St.: Architectural drawings. Through Aug. 30. . . . **holly solomon**, 724 Fifth Ave., at 57th St.: More still-lifes, these from the past twenty-five years (from Milton Avery to Joe Zucker). Through Wednesday, July 3. . . . **zabriskie**, 724 Fifth Ave., at 57th St.: Paintings of imaginative flying machines, some of them done on pieces of airplanes, by Jean-Luc Poivret; bits of discarded industrial machinery, arranged as still-lifes, touched up with paint, and photographed in Cibachrome by Pascal Kern; and hand-forged metal sculptures, plus ceramic pieces, by Peter Briggs. Through July 26.

Sculpture—Among the works by eight contemporary artists are a ring of limestone chunks, laid out on the floor like a giant necklace, by Richard Long; two wall sculptures made from automobile fragments by John Chamberlain; and two large, precariously balanced squares

HARD MONEY A NOVEL
BY MICHAEL M. THOMAS

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GOINGS ON ABOUT TOWN

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of heavy steel plate by Richard Serra. Through July 12. (Marian Goodman, 24 W. 57th St. Open Saturdays.)

GALLERIES—SoHo

Bill Barrell—Abstract Expressionist oils that have figurative elements. Through July 20. (Ingber, 460 West Broadway. Closed Mondays and Thursday through Saturday, July 4-6; open Saturday, June 29.)

Alan Scarritt / Norman Tuck—An installation of abstract photographs, drawings, plaster sculptures, and electronic sounds. / Large kinetic sculptural works that are set in motion by people power—a turn of a hand crank starts a waterfall, for example. Through Saturday, June 29. (Exit Art. 578 Broadway. Opens at noon Tuesdays through Saturdays.)

Group Shows—At the **BROWN,** 100 Greene St.: An assortment of drawings by ten sculptors, Abraham David Christian, Joel Fisher, and Italo Scanga among them. Through July 26. . . . **CONCORD,** 451 Broome St.: Contemporary artists Jessica Diamond, Ed Ruscha, and William Wegman are included in this selection of drawings, photographs, paintings, and installations which is intended to make the gallery-goer chuckle. Through July 12. (Closed Mondays and Friday, July 5.) . . . **CONDESO-LAWLER,** 76 Greene St.: Abstract paintings by nearly two dozen artists, including Robert Mangold, Elizabeth Harms, Agnes Martin, and Sean Scully. Through July 27. (Closed Mondays; open Saturdays.) . . . **COWLES,** 420 West Broadway: Abstract paintings and sculptures from 1964 to the present by twenty artists, including Lynda Benglis, Jake Berthot, Cy Twombly, Andrew Spence, and Jackie Winsor. Through July 12. (Open Saturday, June 29; closed Friday, July 5.) . . . **THE DRAWING CENTER,** 137 Greene St.: Drawings on loan from the Museo Correr, in Venice, which represent work done in that city from the Renaissance through the nineteenth century. Through July 27. (Open Wednesday evenings until 8; open Saturdays; closed Mondays and Friday, July 5.) . . . **ESMAN,** 70 Greene St.: Furniture pieces (of a sort) and objects (a bathroom scale with footprints and splotches of colored cement, for instance) by such East Village artists as Dan Friedman, Kenny Scharf, Rodney Alan Greenblatt, and Rhonda Zwillinger. Through Wednesday, July 3. (Closed Mondays.) . . . **FIRST STREET GALLERY,** 386 West Broadway: Small works by twenty gallery members paying homage to artists who influenced them, such as Matisse, Rubens, Kahlo, Goya, and Muybridge. Through Thursday, July 4. (Opens at noon Tuesdays through Sundays.) . . . **GLADSTONE,** 152 Wooster St.: Seven artists' views of life in our times—Sue Coe's collage painting of a subway vigilante is one. Through July 26. (Closed Mondays.) . . . **KIND,** 136 Greene St.: A stylized painting by Roger Brown dealing with the Siberian explosion that blew trees down concentrically; a canvas, entitled "Jazz," by Archie Rand, showing an ancestral-looking trumpeter and a maiden teasing a crab with a stick; and other works. Through July 26. (Open Saturday, June 29; closed Mondays and Friday, July 5.) . . . **LITTLEJOHN-SMITH,** 133 Greene St.: Paintings and drawings by Bruce Marsh, J.-M. Haessle, and Jill Terranova. Through Tuesday, July 2. (Open daily except Mondays; opens at noon on Sundays.) . . . **MILLIKEN,** 98 Prince St.: Works in a wide variety of mediums by seventeen gallery artists. Through July 12. (Closed Mondays and Friday, July 5.) . . . **NOSEI,** 100 Prince St.: A multitude of doors—found doors, constructed doors, paintings of and on doors. Some of the artists: Mike Bidlo, Chuck Connelly, Karel Appel. Through July 12. . . . **SOHO 20,** at 469 Broome St.: Paintings and sculptures that refer to contemporary issues, by Sue Coe, Bonnie Lucas, Howardena Pindell, Erika Rothenberg, Nancy Spero, and May Stevens. Through July 10. (Opens at noon Tuesdays through Saturdays.) . . . **SPERONE WESTWATER,** 142 Greene St.: Paladino, Merz, Chia, and Richter are among the eight artists represented. Through Saturday, June 29.

Sculpture—Recent pieces by Robert Grosvenor, Donald Judd, Carl Andre, Sol LeWitt, Joel Shapiro, Tony Smith, and Jackie Winsor. Through July 12. (Cooper, 155 Wooster St. Closed Friday, July 5.) . . . ¶ In the back room, Alan Shields has eighteen new works on paper, the paper being handmade, hand-dyed, perforated, laced with stitching, and framed in layers—as many as six sheets in one work.

OTHER GALLERIES

Thomas Downing—Geometric abstractions, mostly from the sixties. Through July 20. (Bouckaert, 100 Hudson St. Closed Mondays; open Saturdays.)

James Nares—Paintings, mostly abstract. Through Saturday, July 6. (Fox, 56 Bleecker St., at Crosby St. Closed Mondays; open Saturdays.)

Group Shows—At the **ARTISTS SPACE,** 223 West Broadway: Installations and individual works by five artists chosen to represent Seattle, Minneapolis, Chicago, Boston, and Atlanta. Through Saturday, June 29. . . . **CITY GALLERY,** 2 Columbus Circle: Paper is the medium for three-dimensional works by Louis Lieberman, Lynn Umlauf, Kenneth Noland, Joel Fisher, and others. Through Saturday, July 6. (Open Saturdays.) . . . **FRANKLIN FURNACE,** 112 Franklin St.: More than three hundred artists' books, other autographic works, and periodicals added to the archives in the past year; early Gilbert and George postcards, for instance. Also, sound installations by James Green and Stephanie Rowden. Through July 27. (Opens Wednesday through Friday, June 26-28, and Tuesday and Wednesday, July 2-3, at noon; opens Saturday, June 29, at 1.) . . . **HEBREW UNION COLLEGE,** 1 West Fourth St., just west of Broadway: Boaz Vaadia, Emily Fuller, and Alan Glovsky are among the ten neighborhood artists exhibiting paintings and sculptures. Through Sept. 27. (Closed Friday, July 5.) . . . **P.P.O.W,** 216 E. 10th St.: Metal and cardboard sculptures of fish by Christy Rupp; paper collages by Nancy Spero; and figurative paintings by Andrea Evans. Through July 7. (Wednesdays through Sundays, noon to 6.) . . . **RYAN,** 452 Columbus Ave., at 81st St.: Prints of New York by Stow Wengenroth, Louis Lozowick, Edward Hopper, and many others. Through July 14. (Tuesdays through Fridays, noon to 7; Saturdays, noon to 6; Sundays, 1 to 5.)

PHOTOGRAPHY

Julia Margaret Cameron (1815-79) / **Michael Levine**—A travelling show from Great Britain of more than a hundred prints, including portraits of Carlyle, Darwin, Tennyson, and Alice (in Wonderland) Liddell. / Color prints, constructions, and paintings by an artist who looks to the urban environment for his subjects—smokestacks and building façades, for instance. Through July 28. (International Center of Photography, 1130 Fifth Ave., at 94th St. Tuesdays, noon to 8, with no admission charge after 5; Wednesdays through Fridays, noon to 5; Saturdays and Sundays, 11 to 6.)

Sandi Fellman—Large-format Polaroids of human figures, primarily body builders and tattooed Japanese men and women. Through Aug. 23. (Witkin, in a new location at 415 West Broadway. Closed Mondays and Friday, July 5; opens Saturday, June 29, at noon.)

Robert Frank—About sixty photographs, all taken before 1965. Through July 12. (Armstrong, 50 W. 57th St. Closed Friday, July 5.)

Peter Gasser / Catherine Warren—Landscape photographs. / Recent paintings. Through July 12. (Light, 724 Fifth Ave., at 57th St.)

Eikoh Hosoe—Black-and-white portraits of the Japanese writer Yukio Mishima. Through July 27. (Burden, 20 E. 23rd St. Opens Wednesday through Saturday, June 26-29, and Tuesday and Wednesday, July 2-3, at 1.)

Erica Lennard—Photographs of India. Through Saturday, June 29. (Sonnabend, 420 West Broadway.)

Milton Rogovin—A retrospective of photographs has been mounted by the Brooklyn Museum. See below, under "Museums," for dates and times.

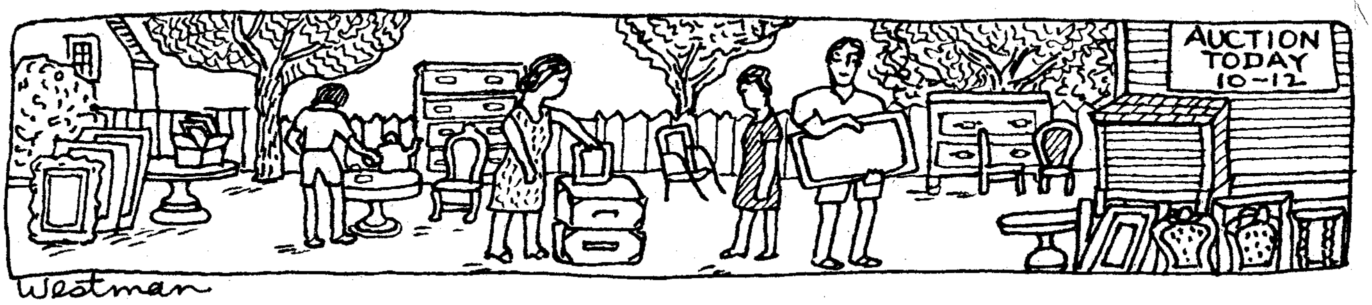
MUSEUMS AND LIBRARIES

Metropolitan Museum, Fifth Ave. at 82nd St.—From the museum's collection of seventy pianos, a kind of genealogical selection—the oldest existing piano (1720), built by the instrument's inventor, Cristofori, and about thirty of its progeny; audioguides are available on which visitors can hear them being played. . . . ¶ An exhibit of a hundred gold objects produced by the prodigious craftsmen of pre-Columbian cultures of the Americas. The pieces, among them pendants, masks, and cups, are from the collection of Jan Mitchell. Through Aug. 11. (Open daily except Mondays. Hours: Tuesdays through Sundays, 9:30 to 5:15, and Tuesday evenings until 8:45.)

Museum of Modern Art, 11 W. 53rd St.—Two contemporary architects: Ricardo Bofill, whose works will be shown by way of photographs, and Leon Krier, who will have drawings and a model. Starts Thursday, June 27. . . . ¶ A retrospective of works by Kurt Schwitters includes a comprehensive selection of collages by one of the first artists to use that form. Complementary exhibits are at Marlborough Gallery, 40 W. 57th St., and La Boetie, 9 E. 82nd St. (The museum is open daily, except Wednesdays, 11 to 6, and Thursday evenings, except July 4, until 9; on July 4 the doors will close at 5.)

Guggenheim Museum, Fifth Ave. at 89th St.—A show of a hundred paintings which could be said to deliver a cram course in the principal styles used by American and European artists of the past forty years. From the museum's collections and from private donors. Starts Friday, June 28. (Open daily except Mondays. Hours: Tuesdays, 11 to 8, with no admission charge from 5 to 8; Wednesdays through Sundays, 11 to 5.)

Whitney Museum of American Art, Madison Ave. at 75th St.—A sixteen-foot-high corrugated-



WHITE LINEN.
THE CRISP, REFRESHING FRAGRANCE
TO LIVE IN ALL YEAR LONG.
ESTÉE LAUDER
© 1983 Estée Lauder, Inc. Photograph: Skrebnesk sedown Plantation, LA Dre van Amringe Shoes: Vittorio Ricci

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A PIÑA COLADA.

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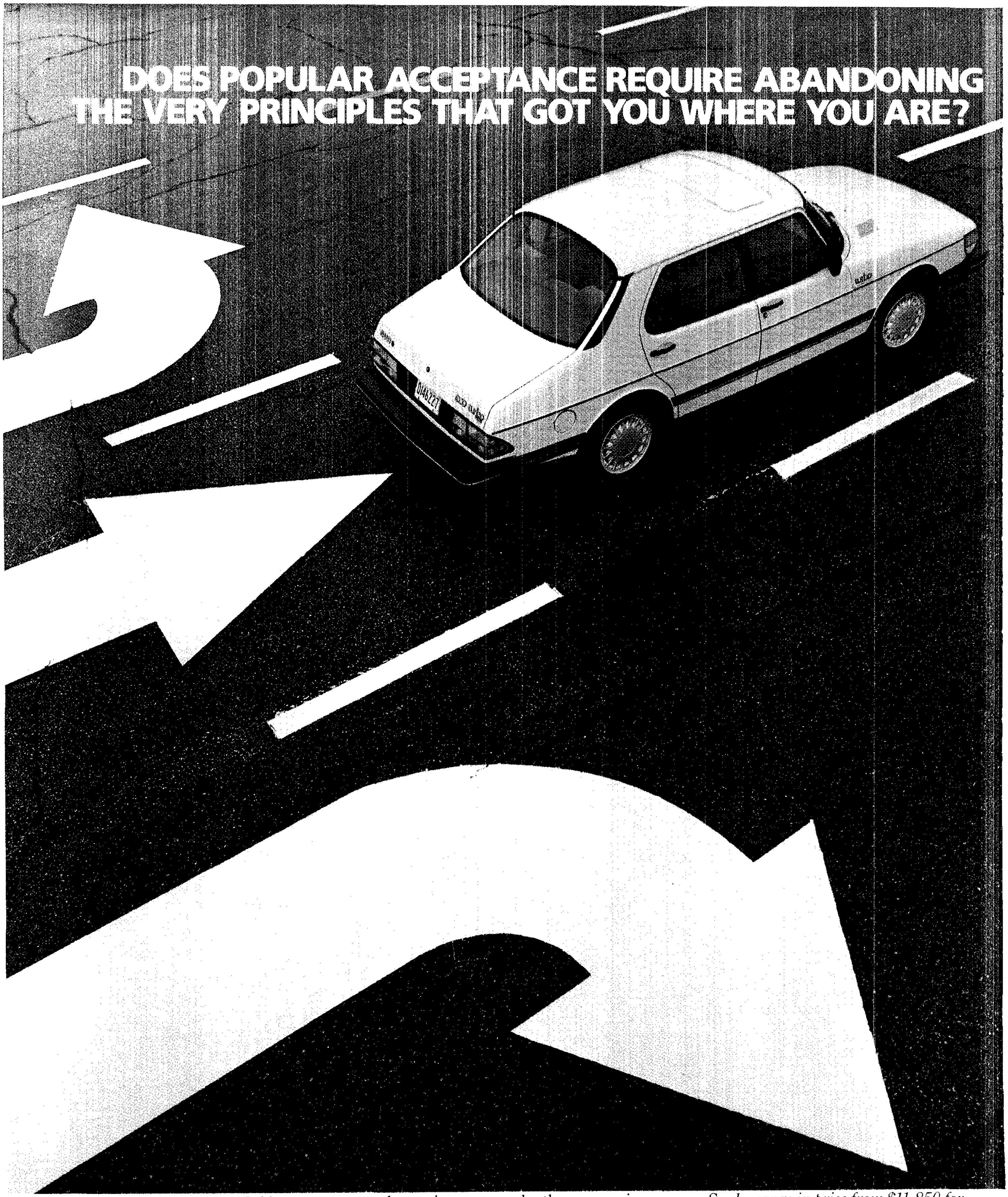
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GOINGS ON ABOUT TOWN

cardboard reproduction of one of Michael Heizer's earthworks will occupy the fourth-floor gallery. Starts Thursday, June 27. A complementary exhibit is at Xavier Fourcade, 36 E. 75th St. . . . ¶ A selection of more than ninety of the drawings that have entered the collection over the past few years. (Open daily except Mondays and Thursday, July 4. Hours: Tuesdays, 1 to 8, with no admission charge after 6; Wednesdays through Saturdays, 11 to 5; Sundays, noon to 6.)

Brooklyn Museum, Eastern Parkway—A show of photographs by Milton Rogovin. Through July 22. (Open daily except Tuesdays. Hours: Mondays and Wednesdays through Fridays, except Thursday, July 4, from 10 to 5; Saturdays, 11 to 6; Sundays, 1 to 6; Thursday, July 4, from 1 to 5.)

American Museum of Natural History, Central Park W. at 79th St.—The ancient Mayan civilization is recaptured and documented in an exhibit of objects (in gold, wood, jade, and shell), plus maps and photographic blowups. Through July 28. (Open daily. Hours: Mondays, Tuesdays, Thursdays, and Sundays, 10 to 5:45; Wednesdays, 10 to 9; Fridays and Saturdays, 10 to 9, with no admission charge after 5.)

Asia Society, 725 Park Ave., at 70th St.—A show devoted to paintings, scrolls, screens, and other works by seventeenth- to nineteenth-century Japanese artists who re-created supernatural figures in Japanese folklore—the Taoist Immortals, Shōki the Demon Queller, and Kabuki ghosts among them. Organized by the Spencer Museum of Art, University of Kansas. (Open daily except Mondays and Thursday, July 4. Hours: Tuesdays through Saturdays, 11 to 6; Sundays, noon to 5.)

Cooper-Hewitt Museum, Fifth Ave. at 91st St.—An all-purpose exhibit about wine as a creative stimulant: Chalices, decanters, goblets, and vessels of every kind; wallpaper, prints, textiles, and other decorative objects using grapevine patterns. Also, equipment for harvesting and processing—for instance, a large copper-and-brass still from the Cognac region of France. . . . ¶ A retrospective of Chicago furniture: An 1873 dressing table by W. W. Strong for the bridal suite of the Palmer House; a 1927 skyscraper-style armchair by Abel Faidy; a 1983 green lacquer vanity by Cal Spritzer. Through Aug. 25. (Open daily except Mondays and Thursday, July 4. Hours: Tuesdays, 10 to 9, with no admission charge after 5; Wednesdays through Saturdays, 10 to 5; Sundays, noon to 5.)

Jewish Museum, Fifth Ave. at 92nd St.—A show of paintings and drawings by German artist Felix Nussbaum (1904-44), many from the period when he lived in hiding during the Second World War. The artist died at Auschwitz. Through Aug. 4. (Open daily except Saturdays and Friday, July 5. Hours: Mondays through Thursdays, noon to 5, and Tuesday evenings until 8; Fridays, 11 to 3; Sundays, 11 to 6.)

Morgan Library, 29 E. 36th St.—A show of drawings and watercolors by Théodore Géricault, including fourteen preliminary studies for his best-known painting, "The Raft of the Medusa" (at the Louvre). . . . ¶ A display of memorabilia pertaining to "The Mikado," which was first performed a hundred years ago. Both shows through July 31. (Open daily except Mondays and Thursday, July 4. Hours: Tuesdays through Saturdays, 10:30 to 5; Sundays, 1 to 5.)

Museum of American Folk Art, 125 W. 55th St.—High points in Southern folk art have been gathered for a show of ninety pieces, including paintings, sculptures, textiles, furniture, and pottery. Through Aug. 25. (Open daily except Mondays and Thursday, July 4. Hours: Tuesdays, 10:30 to 8, with no admission charge after 5:30; Wednesdays through Sundays, 10:30 to 5:30.)

The New Museum, 583 Broadway—The forms and the language of signs (as in road signs and logos) are reflected in paintings, photographs, video, and signs of all kinds by nine artists—Al Souza, Jenny Holzer, John Knight, and Marian Galczenski among them. Through July 7. . . . ¶ A show of paintings and works on paper by Pierre Tal-Coat, a French abstractionist. Through Sunday, June 30. (Open daily except Mondays, Tuesdays, and Thursday and Friday, July 4-5. Hours: Wednesdays, noon to 8; Thursdays through Sundays, noon to 6.)

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New-York Historical Society, 170 Central Park W., at 77th St.—The bicentennial of Audubon's birth is cause for celebration at the society, which owns and has mounted all four hundred and thirty-three remaining original watercolors for "Birds of America." (Open daily except Mondays. Hours: Tuesdays through Fridays, 11 to 5; Saturdays, 10 to 5; Sundays, 1 to 5.)

New York Public Library, Fifth Ave. at 42nd St.—A show that commemorates England's colonial exploits in North America four hundred years ago, with emphasis on the Roanoke voyages initiated by Sir Walter Raleigh. Documentation: John White's 1585 watercolors depicting Indians and nature; a copy of a book written about an exploration of Virginia which has engravings based on the White watercolors; the first map of North Carolina; a paper with the signatures of Queen Elizabeth I and Raleigh authorizing payment for arrows for the British Army. A hundred of the items come from the British Museum and British Library; fifty are from the New York library. Through Aug. 20. Visitors to the library must use the Forty-second Street entrance. (Open daily, except Sundays and Thursday, July 4, from 10 to 6.)

ART AFTER DARK

(Performance, music, dance, video, film, and combinations thereof.)

P.S. 122, 150 First Ave., at 9th St. 477-5288.—Bill and Mary Buchen (music performance), Friday and Saturday, June 28-29, at 9 and 11, and Sunday, June 30, at 9.

MUSIC

New York City Opera—Opening performances of the season, which will continue through Sunday, Nov. 17—Friday, July 5, at 7: "The Student Prince," with Elizabeth Hynes, Jerry Hadley, and Adib Fazah; conducted by Paul Gemignani. . . . ¶ Saturday, July 6, at 2: "The Student Prince," with Elizabeth Hynes, Mark Thomsen, and Adib Fazah; Paul Gemignani. . . . ¶ Saturday, July 6, at 8: "The Student Prince," with Leigh Munro, Jon Garrison, and Dominic Cossa; Paul Gemignani. (New York State Theatre. 870-5570.)

Viennese Operetta Company Orchestra—Lois Albright conducting. (Alice Tully Hall. 362-1911. Wednesday, June 26, at 8:30.)

J. S. Bach: The Complete Organ Works—The final two in a series of biweekly recitals, each performed by a different organist. (St. Paul's Chapel, Columbia University, Broadway at 116th St. Thursday, June 27, at 8: Leonard Raver. . . . ¶ Grace Church, Broadway at 10th St. Sunday, June 30, at 3: John Walker. Admission to both concerts by contribution.)

Golden Fleece Ltd.—Presenting three one-act chamber operas by American composers: "Anne Boleyn" (première), by Jeremy Beck; "Trio Sonata" (première), by Linder Chlarson; and "The Family Man," by Leonard Lehrman. (TOMI, 23 W. 73rd St. Thursday and Friday, June 27-28, at 8; Saturday, June 29, at 3 and 8; and Sunday, June 30, at 3 and 7. For tickets, call 691-6105.)

New York City Gay Men's Chorus—Gary Miller directing. (Alice Tully Hall. Thursday through Saturday, June 27-29, at 8.)

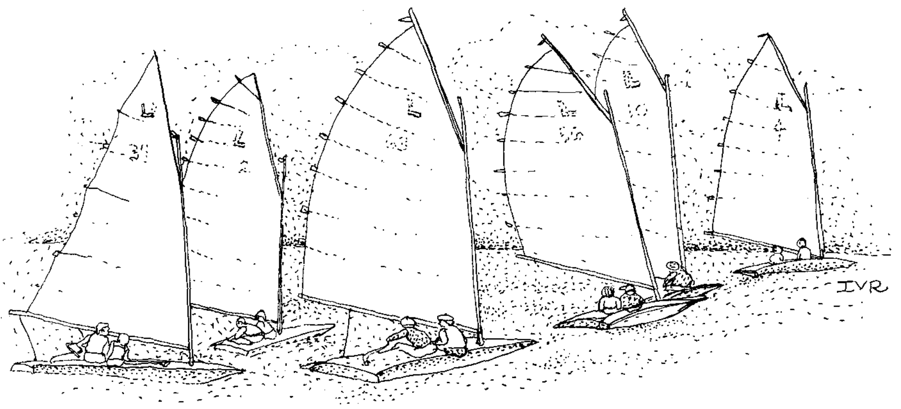
New Calliope Singers—Peter Schubert directing the first in a series of three all-Bach programs, this one with Christine Schadeberg, soprano; Jacqueline Pierce, alto; Thomas Bogdan, tenor; and Kevin Deas, bass. (Cathedral of St. John the Divine, Amsterdam Ave. at 112th St. Sunday, June 30, at 3. For tickets, call 864-6765.)

IN THE COUNTRY

Tanglewood Festival—Opening performances of the season, which will run through Sunday, Sept. 1. Thursday, June 27, at 8:30: The Beaux Arts Trio, in an all-Beethoven program. . . . ¶ Friday, June 28, at 7: Lynn Harrell, cello, and Warren Jones, piano, in a Stravinsky-Beethoven program. . . . ¶ Friday, June 28, at 9: Seiji Ozawa conducting the Boston Symphony in an all-Beethoven program, with André Watts, piano. . . . ¶ Saturday, June 29, at 8:30: Kent Nagano conducting, with Mr. Harrell. . . . ¶ Sunday, June 30, at 2:30: Seiji Ozawa directing, with Sylvia McNair, soprano; Malcolm Lowe, violin; and the Tanglewood Festival Chorus. . . . ¶ Wednesday, July 3, at 8:30: The King's Singers. . . . ¶ Thursday, July 4, at 8:30: William Bolcom, piano, and Joan Morris, mezzo-soprano. . . . ¶ Friday, July 5, at 7: Peter Serkin, piano, in a Stravinsky-Mozart program. . . . ¶ Friday, July 5, at 9: Seiji Ozawa conducting the Boston Symphony, with Kiri Te Kanawa, soprano. . . . ¶ Saturday, July 6, at 8:30: Leonard Slatkin conducting, with Elmar Oliveira, violin. . . . ¶ Sunday, July 7, at 2:30: Leonard Slatkin conducting, with Jules Eskin, cello. (Lenox, Mass. For information about tickets, call 1-413 637-1666.)

Caramoor Festival—Opening performances of the season, which will run through Sunday, Aug. 25. Saturday, June 29, at 8:30: John Nelson conducting the Orchestra of St. Luke's in an all-Beethoven program, with Rudolf Firkusny, piano. . . . ¶ Sunday, June 30, at 5:30: The Waverly Consort in a program of Renaissance music. . . . ¶ Thursday, July 4, at 5:30: Michael Feldman conducting the orchestra, with Ilana Vered, piano; Scott Thornberg, trumpet; and Naoko Tanaka, violin. . . . ¶ Friday, July 5, at 9: The St. Luke's Chamber Ensemble, with Elizabeth Mann, flute, and the Messrs. Thornberg and Tanaka. . . . ¶ Saturday, July 6, at 8:30: John Nelson conducting the orchestra, with Cho-Liang Lin, violin. . . . ¶ Sunday, July 7, at 5:30: The Tokyo String Quartet. (Katonah, N.Y. For information about tickets, call 1-914 232-5035.)

Saratoga Performing Arts Center—Thursday, June 27, at 8:15: The Grateful Dead. . . .



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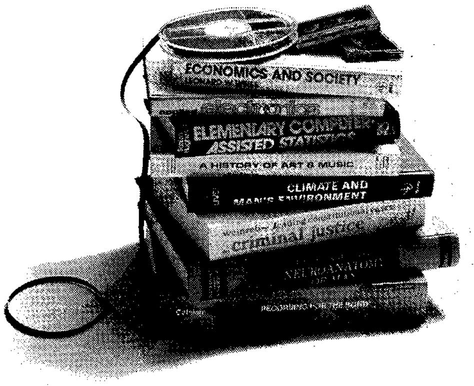

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AN EDUCATIONAL LIFELINE.

¶ Two twelve-hour offerings of the **KOOL JAZZ FESTIVAL**—Saturday, June 29, at noon: Patti Labelle, the Miles Davis band, the Wynton Marsalis quintet, the Dirty Dozen Brass Band, and others. . . . Sunday, June 30, at noon: The Dave Brubeck quartet, the Woody Herman All-Stars, Dr. John, Spyro Gyra, and others. For information about tickets, call 787-2020, in New York. . . . ¶ The **NEW YORK CITY BALLET** will open a three-week season (tentative schedule) that ends Saturday, July 20, with performances of "A Midsummer Night's Dream" on Wednesday, July 3, at 8:15; Thursday, July 4, at 2 and 8:15; Friday, July 5, at 8:15; Saturday, July 6, at 2 and 8:15; and Sunday, July 7, at 8:15. (Saratoga Springs. Through Friday, Aug. 30. For information about tickets, call 977-9020, in New York.)

SUMMERFARE—Opening performances of a festival of theatre, dance, and music which will take place at the State University of New York, at Purchase, through Sunday, July 28—**THURSDAY, JULY 4, AT 7:** Anthony Newman conducting an all-Handel program, with fireworks. (No tickets necessary.) . . . **AT 10:** Gisela May, in a cabaret program; illusionist Brian Glow; and the New York Vocal Arts Ensemble, in a program of Stephen Foster music. . . . **FRIDAY, JULY 5, AT 6:** A performance of the Handel opera "Julius Caesar." . . . **AT 7:30 AND 10:** Brian Glow. . . . **AT 8:** The Paul Taylor Dance Company and piano/vocal duo William Bolcom and Joan Morris. . . . **AT 10:45:** Gisela May. . . . **SATURDAY, JULY 6, AT 7:30 AND 10:30:** Brian Glow. . . . **AT 7:45:** The Kronos Quartet. . . . **AT 8:** The Paul Taylor Dance Company and Bolcom & Morris. . . . **AT 10:45:** Gisela May. . . . **SUNDAY, JULY 7, AT 3 AND 6:30:** Brian Glow. . . . **AT 3:15:** "Julius Caesar." . . . **AT 6:** The Paul Taylor Dance Company and Anthony Newman, harpsichord. . . . **AT 7:** The French Saxophone Quartet. (For information about tickets, call 1-914 253-5900.)

JACOB'S PILLOW DANCE FESTIVAL—Programs of modern and ethnic dancing. Through Saturday, June 29: The Bucket Dance Theatre. . . . ¶ Tuesday through Saturday, July 2-6: The Festival Dance Theatre, with guest artist Merrill Ashley. (Becket, Mass. Tuesdays through Thursdays at 8; Fridays at 8:30; and Saturdays at 2 and 8:30. For information about tickets, call 1-413 243-0745.)

SPORTS

AUTOMOBILE RACING—At the Meadowlands: United States Grand Prix, Sunday, June 30, at 4.

BASEBALL—**YANKEES** at Yankee Stadium: Vs. Baltimore, Wednesday, June 26, at 8. . . . ¶ Milwaukee, Friday and Saturday, June 28-29, at 8, and Sunday, June 30, at 2. . . . ¶ Minnesota, Thursday, July 4, at 7, and Friday and Saturday, July 5-6, at 8. . . . **METS** at Shea Stadium: Vs. Pittsburgh, Monday through Wednesday, July 1-3, at 7:35.

RACING—At **BELMONT:** Daily, except Tuesdays, at 1; through Monday, July 29. The Sheepshead Bay Handicap, Saturday, June 29; the Astoria, Sunday, June 30; the Suburban Handicap, Thursday, July 4; the Tidal Handicap, Friday, July 5; and the Coaching Club American Oaks, Saturday, July 6. (Frequent trains leave Penn Station for the track Mondays and Wednesdays through Fridays between 10:53 and 12:59, and Saturdays, Sundays, and Thursday, July 4, between 10:58 and 1:04.) . . . **MONMOUTH PARK,** Oceanport, N.J.: Weekdays at 1:30; through Saturday, Aug. 31. The Molly Pitcher Handicap, Saturday, July 6. . . . **ATLANTIC CITY AT GARDEN STATE PARK,** Cherry Hill, N.J.: Weeknights at 8; through Thursday, July 25.

TROTTING—At **ROOSEVELT RACEWAY,** Westbury: Weeknights at 8; through Saturday, Aug. 3. . . . **SARATOGA RACEWAY,** Saratoga Springs: Weeknights, except Thursday, July 4, at 8; Sunday, June 30, at 6; and Thursday, July 4, at 1:15. Through Saturday, Nov. 23. . . . **MEADOWLANDS:** Weeknights at 8; through Saturday, Aug. 17.

ET ALIA

AUCTIONS—At **SOTHEBY'S,** York Ave. at 72nd St.—Thursday, June 27, at 10:15, and Friday, June 28, at 10:15 and 2: American furniture, folk art, and silver. (Exhibition hours: Wednesday, June 26, from 9:30 to 3.) . . . ¶ Monday, July 1, at 2: Chinese snuff bottles. (Exhibition hours: Thursday through Saturday, June 27-29, from 9:30 to 5.) . . . **CHRISTIE'S,** Park Ave. at 59th St.—Thursday, June 27, at 10: Japanese prints. (Exhibition hours: Wednesday, June 26, from 10 to 2.) . . . ¶ Thursday, June 27, at 2: Japanese netsuke and inro. (Exhibition hours: Wednesday, June 26, from 10 to 2.)

THE GREAT OUTDOORS

THE GLORIOUS FOURTH—Herewith a listing of some of the events in store. **SATURDAY THROUGH TUESDAY, JUNE 29-JULY 2:** Eight international yachts will compete for the Liberty Cup in a series of races in New York Harbor near the Statue of Liberty, starting each day at noon. . . . **THURSDAY, JULY 4:** At ten, lifeboat racing will be held on the East River near the South Street Seaport Museum. . . . ¶ At noon, a procession of a hundred antique and classic cars, recently involved in "The Great American Race," from California to New York, will cross Church and Vesey Streets. . . . ¶ A street fair, with food, booths for arts and crafts and antiques, and entertainment, will take place on State and Water Streets, from noon to six. . . . ¶ This year's parade, which kicks off at one-thirty, starts at the World Trade Center Plaza, proceeds along Church and Liberty Streets, and heads down Broadway to the Battery. . . . ¶ At the Battery Park Seawall, the parade participants will be greeted by a fifty-gun salute. . . . ¶ At four, in Battery Park, Major Bruce Jilkes will conduct the United States Air Force Band in a concert saluting the Statue of Liberty. . . . ¶ The windup, at nine-twenty, will include two fireworks displays—Jersey City's show near the Statue of Liberty, and Macy's traditional fireworks, set off from barges in the East River between 23rd and 42nd Streets. (The F.D.R. Drive will be closed to automobiles and open to pedestrians from 14th to 51st Streets between eight and ten-thirty.)

NEW YORK SHAKESPEARE FESTIVAL—Free performances of **MEASURE FOR MEASURE.** The first of two productions to be presented in the Delacorte Theatre this summer. (Central Park near W. 81st St. Nightly, except Mondays, at 8. Through Sunday, July 21. For information about tickets, call 861-7277.)

DAMROSCH PARK, Lincoln Center—Ainslee Cox conducting the Goldman Memorial Band in this summer's series of concerts. (Wednesdays through Fridays, and Sundays, at 8; through Sunday, Aug. 4.) . . . ¶ Jens Nygaard conducting the Naumburg Orchestra in the second in a series of three concerts, this one with Robert Mann, violin/viola, and Nicholas Mann, violin. (Tuesday, July 2, at 8.)

MUSIC FESTIVAL ON THE PIER—The Miller beer people's summertime concerts. Thursday, June 27: Jeffrey Osborne and Whitney Houston. . . . ¶ Friday, June 28: Howard Jones and Animotion. . . . ¶ Tuesday, July 2: New Edition and Rappin' Duke. (Pier 84, Twelfth Ave. at 45th St. Evenings at 7:30; through Saturday, Sept. 14. For information about tickets, call 249-8870.)

SOUTH STREET SEAPORT MUSEUM—Free concerts on Pier 16. Friday, July 5, at 8: Toshiko Akiyoshi Jazz Orchestra, with Lew Tabackin. . . . ¶ Saturday, July 6, at 8: Larry Coryell quartet. (East River at Fulton St. In the event of rain, the concert will be given on the following Monday.)

BROOKLYN BOTANIC GARDEN—The Cranford Rose Garden is open for the season, with more than five thousand rosebushes representing six hundred varieties. (Tuesdays through Fridays, 9 to 4:30; Saturdays, Sundays, and Thursday, July 4, from 10:30 to 4:30.)

COMING EVENTS

(A calendar for readers who plan a month or so ahead.)

GOLF—U.S.G.A. Women's Open Championship. (Baltusrol Golf Club, Springfield, N.J. July 11-14.)

RACING—At **WOODBINE,** Toronto: The Queen's Plate, July 14. . . . **ATLANTIC CITY:** July 26-Aug. 31. . . . **SARATOGA:** July 31-Aug. 26.

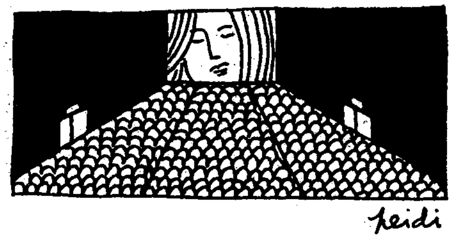
TENNIS—Volvo Tennis/New Jersey. (Newark Academy, Livingston, N.J. July 21-28.)

MUSIC—Mostly Mozart Festival, at Avery Fisher Hall, July 8-Aug. 24. . . . ¶ Boston Pops, in Central Park, July 8. . . . ¶ Philadelphia Orchestra, at the Saratoga Performing Arts Center, Aug. 7-24.

DANCE—Natalia Makarova and Roland Petit, with the Berlin Ballet, in an engagement of "The Blue Angel," at the Metropolitan Opera House, July 24-Aug. 3.

GOINGS ON ABOUT TOWN

THE MOVIE HOUSES



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FILMS ACCOMPANIED BY A DAGGER ARE DESCRIBED IN THE "IN BRIEF" SECTION, STARTING ON PAGE 17.

EAST SIDE

Little Theatre, Public Theatre, 425 Lafayette St. (598-7171; theatre opens in the late afternoon and is closed Mondays.)
Through June 27: "Life with Father" (1947; directed by Michael Curtiz), with Irene Dunne, William Powell, Elizabeth Taylor, and Edmund Gwenn; and "The Big Hangover" (1950; Norman Krasna), with Van Johnson and Elizabeth Taylor.
June 28-30: At 4: "Little Women" (1949; Mervyn Le Roy), with June Allyson and Elizabeth Taylor; and "Cynthia" (1947; Robert Z. Leonard), with Elizabeth Taylor and George Murphy. At 8, "Jane Eyre" (1944; Robert Stevenson), with Joan Fontaine, Orson Welles, and Elizabeth Taylor; and "Ivanhoe" (1952; Richard Thorpe), with Robert Taylor, Elizabeth Taylor, Joan Fontaine, and George Sanders.
July 2-4: "Giant" (†).
From July 5: At 4: "Father of the Bride" (†); and "Father's Little Dividend" (1951; Vincente Minnelli), with Spencer Tracy, Elizabeth Taylor, and Joan Bennett. At 8: "The Last Time I Saw Paris" (1954; Richard Brooks), with Elizabeth Taylor, Van Johnson, Walter Pidgeon, and Donna Reed; and "Butterfield 8" (†).

R.K.O. Century Art, 36 E. 8th. (473-7014)
Through June 27: "The Breakfast Club" (John Hughes), with Anthony Michael Hall, Ally Sheedy, and Molly Ringwald.
From June 28: "Pale Rider" (Clint Eastwood), with Eastwood.

St. Marks Cinema, 2nd Ave. at 8th. (533-9292)
Through June 27: "Brewster's Millions" (Walter Hill), with Richard Pryor and John Candy; and "Stick" (Burt Reynolds), with Reynolds, George Segal, and Candice Bergen.
From June 28: To be announced.

New Gramercy, Lexington at 23rd. (475-1660)
Through July 2: "Secret Admirer" (David Greenwalt), with C. Thomas Howell.
From July 3: "The Emerald Forest" (John Boorman), with Powers Boothe, Meg Foster, and Charley Boorman.

Bay Cinema, 2nd Ave. at 32nd. (679-0160)
"Cocoon" (Ron Howard), with Don Ameche and Wilford Brimley.

Murray Hill, 160 E. 34th. (685-7652)
"The Goonies" (Richard Donner).

Loews 34th Street Showplace, 238 E. 34th. (532-5544)
Theatre 1: Through July 2: "A View to a Kill" (†). From July 3: To be announced.
Theatre 2: Through July 2: "D.A.R.Y.L." (Simon Wincer), with Mary Beth Hurt and Michael McKean. From July 3: "Back to the Future" (Robert Zemeckis), with Michael J. Fox and Lea Thompson.
Theatre 3: "Prizzi's Honor" (†).

34th St. East, 241 E. 34th. (683-0255)
"Perfect" (James Bridges), with John Travolta and Jamie Lee Curtis.

Eastside Cinema, 3rd Ave. at 55th. (755-3020)
Through June 27: "The Purple Rose of Cairo" (†).
From June 28: To be announced.

Sutton, 3rd Ave. at 57th. (759-1411)
"Prizzi's Honor" (†).

Gotham Cinema, 3rd Ave. at 58th. (759-2262)
"Cocoon" (Ron Howard), with Don Ameche and Wilford Brimley.

Plaza, 42 E. 58th. (355-3320)
Through June 27: "Sylvia" (Michael Firth; a New Zealand film).
From June 28: "Stop Making Sense" (Jonathan Demme), with the Talking Heads; and "Metropolis" (1926; Fritz Lang; a German silent film).

Manhattan 1 and 2, 3rd Ave. at 59th. (935-6420)
Theatre 1: "The Goonies" (Richard Donner).
Theatre 2: Through June 27: "The Goonies."
From June 28: "Pale Rider" (Clint Eastwood), with Eastwood.

Baronet and Coronet, 3rd Ave. at 59th. (355-1663)
Theatre 1: "Perfect" (James Bridges), with John Travolta and Jamie Lee Curtis.
Theatre 2: Through June 27: "A Passage to India" (†). From June 28: "St. Elmo's Fire" (Joel Schumacher), with Emilio Estevez and Rob Lowe.

D. W. Griffith, 235 E. 59th. (759-4630)
"Witness" (†).

Cinema I and II, 3rd Ave. at 60th. (753-6022/0774)
Theatre 1: "The Shooting Party" (†). No performances on Thursday, June 27.
Theatre 2: Through July 2: "Movers and Shakers" (William Asher), with Walter Matthau and Charles Grodin. From July 3: "The Emerald Forest" (John Boorman), with Powers Boothe, Meg Foster, and Charley Boorman.

Gemini 1 and 2, 2nd Ave. at 64th. (832-1670)
Theatre 1: "Lifeforce" (Tobe Hooper), with Steve Railsback.
Theatre 2: Through July 2: "Rambo: First Blood Part II" (†). From July 3: "Day of the Dead" (George A. Romero).

Beekman, 2nd Ave. at 66th. (737-2622)
"Secret Admirer" (David Greenwalt), with C. Thomas Howell.

Loews New York Twin 1 and 2, 2nd Ave. at 67th. (744-7339)
Theatre 1: Through July 2: "D.A.R.Y.L." (Simon Wincer), with Mary Beth Hurt and Michael McKean. From July 3: "Back to the Future" (Robert Zemeckis), with Michael J. Fox and Lea Thompson.
Theatre 2: Through July 2: "A View to a Kill" (†). From July 3: To be announced.

68th St. Playhouse, 3rd Ave. at 68th. (734-0302)
"The Gods Must Be Crazy" (1979; Jamie Uys).

Loews Tower East, 3rd Ave. at 71st. (879-1313)
Through June 27: "Fletch" (Michael Ritchie), with Chevy Chase.
From June 28: To be announced.

U. A. 85th St. East, 1st Ave. at 85th. (249-5100)
"Lifeforce" (Tobe Hooper), with Steve Railsback.

Loews Orpheum 1 and 2, 3rd Ave. at 86th. (289-4607)
Theatre 1: Through June 27: "A View to a Kill" (†). From June 28: "Pale Rider" (Clint Eastwood), with Eastwood.
Theatre 2: "Cocoon" (Ron Howard), with Don Ameche and Wilford Brimley.

86th St. East, 3rd Ave. at 86th. (249-1144)
Through July 2: "Brewster's Millions" (Walter Hill), with Richard Pryor and John Candy.
From July 3: "Red Sonja" (Richard Fleischer), with Arnold Schwarzenegger and Brigitte Nielsen.

R.K.O. Century 86th St. Twin, Lexington at 86th. (289-8900)
Theatre 1: "The Goonies" (Richard Donner).
Theatre 2: "Rambo: First Blood Part II" (†).

WEST SIDE

Film Forum 1 and 2, 57 Watts St. (431-1590; Mondays through Fridays, theatre opens in the late afternoon.)
Theatre 1: "A Man Like Eva" (1983; directed by Radu Gabrea; in German), with Eva Mattes.
Theatre 2: Through June 27: "Once Upon a Time in America" (†). From June 28: "Songwriter" (Alan Rudolph), with Willie Nelson and Kris Kristofferson.

Waverly 1 and 2, 6th Ave. at 3rd. (929-8037)
Theatre 1: June 26: "The Purple Rose of Cairo" (†). From June 27: "Before Stonewall: The Making of a Gay and Lesbian Community" (Greta Schiller).
Theatre 2: June 26: "The Brother from Another Planet" (John Sayles), with Joe Morton, Dee Dee Bridgewater, and Sayles. June 27-July 2: "The Purple Rose of Cairo" (†). From July 3: "The Lift" (Dick Maas; in Dutch).

Greenwich Playhouse 1 and 2, Greenwich Ave. at 12th. (929-3350)
Theatre 1: Through July 2: "Fletch" (Michael Ritchie), with Chevy Chase. From July 3: "Day of the Dead" (George A. Romero).
Theatre 2: "Lifeforce" (Tobe Hooper), with Steve Railsback.

Quad Cinema, 34 W. 13th. (255-8800)
Theatre 1: Through June 27: "What Have I Done to Deserve This!" (†). From June 28: "Amadeus" (†).
Theatre 2: Through June 27: "Pumping Iron II: The Women" (George Butler). From June 28: "Secret Honor" (Robert Altman).
Theatre 3: "Streetwise" (Martin Bell), a documentary.
Theatre 4: Through June 27: "A Private Function" (†). From June 28: "The Brother from Another Planet" (John Sayles), with Joe Morton, Dee Dee Bridgewater, and Sayles.

23rd St. West Triplex, 333 W. 23rd. (989-0060)
Theatre 1: Through June 27: "Perfect" (James Bridges), with John Travolta and Jamie Lee Curtis. June 28-July 2: To be announced. From July 3: "Red Sonja" (Richard Fleischer), with Arnold Schwarzenegger and Brigitte Nielsen.
Theatre 2: "Witness" (†).
Theatre 3: "Rambo: First Blood Part II" (†). No evening performances on Friday, June 28.

Guild, 33 W. 50th. (757-2406)
"Desperately Seeking Susan" (†).

Radio City Music Hall, Sixth Ave. at 50th. (757-3100; closed Mondays.)
"Return to Oz" (Walter Murch), with Nicol Williamson and Jean Marsh.

Ziegfeld, 141 W. 54th. (765-7600)
Through June 27: Theatre closed.
From June 28: "St. Elmo's Fire" (Joel Schumacher), with Emilio Estevez and Rob Lowe. (No evening performances on Saturday, June 29.)

Festival, 6 W. 57th. (757-2715)
Through June 27: "A Soldier's Story" (Norman Jewison), with Howard Rollins, Jr., and Adolph Caesar.
From June 28: "A Passage to India" (†).

57th St. Playhouse, 110 W. 57th. (581-7360)
"Pumping Iron II: The Women" (George Butler).

Paris, 4 W. 58th. (688-2013)
"Dangerous Moves" (†).

Cinema 3, 2 W. 59th. (752-5959)
Through July 2: "Desperately Seeking Susan" (†).
From July 3: "The Emerald Forest" (John Boorman), with Powers Boothe, Meg Foster, and Charley Boorman.

Loews Paramount, B'way at 61st. (247-5070)
Through June 27: "Fletch" (Michael Ritchie), with Chevy Chase.
From June 28: To be announced.

Lincoln Plaza 1, 2, and 3, B'way at 63rd. (757-2280)
Theatre 1: "Amadeus" (†).
Theatre 2: "Streetwise" (Martin Bell), a documentary.
Theatre 3: Through June 29: "Jules and Jim" (†). From June 30: "A Flash of Green" (Victor Nuñez), with Ed Harris and Blair Brown.

Cinema Studio 1 and 2, B'way at 66th. (877-4040)
Theatre 1: "The Home and the World" (†).
Theatre 2: "The Purple Rose of Cairo" (†).

Embassy 72nd St. 1 and 2, B'way at 72nd. (724-6745)
Theatre 1: Through June 27: "Secret Honor" (Robert Altman). From June 28: "Henry IV" (Marco Bellocchio; in Italian), with

GOINGS ON ABOUT TOWN

Marcello Mastroianni and Claudia Cardinale.
Theatre 2: "Goodbye, New York" (Amos Kollek), with Julie Hagerty and Kollek.

Loews 84th Street Sixplex, B'way at 84th. (877-3600)
Theatre 1: Through July 2: "D.A.R.Y.L." (Simon Wincer), with Mary Beth Hurt and Michael McKean. From July 3: "Back to the Future" (Robert Zemeckis), with Michael J. Fox and Lea Thompson.
Theatre 2: Through July 2: "A View to a Kill" (†). From July 3: To be announced.
Theatre 3: Through June 27: "Fletch" (Michael Ritchie), with Chevy Chase. From June 28: "Pale Rider" (Clint Eastwood), with Eastwood.
Theatre 4: "Cocoon" (Ron Howard), with Don Ameche and Wilford Brimley.
Theatre 5: "The Goonies" (Richard Donner).
Theatre 6: "Prizzi's Honor" (†).

Metro Cinema, B'way at 99th. (222-1200)
Through July 2: "8½" (†).
From July 3: "The Emerald Forest" (John Boorman), with Powers Boothe, Meg Foster, and Charley Boorman.

Olympia Quad, B'way at 107th. (865-8128)
Theatre 1: "Rambo: First Blood Part II" (†).
Theatre 2: Through June 27: "Secret Admirer" (David Greenwalt), with C. Thomas Howell; and "The Falcon and the Snowman" (John Schlesinger), with Timothy Hutton and Sean Penn. June 28-July 2: "Desperately Seeking Susan" (†). From July 3: "Day of the Dead" (George A. Romero).
Theatre 3: Through July 2: "Lifeforce" (Tobe Hooper), with Steve Railsback. From July 3: "Red Sonja" (Richard Fleischer), with Arnold Schwarzenegger and Brigitte Nielsen.
Theatre 4: Through June 27: "Lifeforce." From June 28: "The Brother from Another Planet" (John Sayles), with Joe Morton, Dee Dee Bridgewater, and Sayles.

TIMES SQUARE AREA

Criterion Theatres, B'way at 44th. (354-0900)
Theatre 1: "The Goonies" (directed by Richard Donner).
Theatre 2: "Cocoon" (Ron Howard), with Don Ameche and Wilford Brimley.
Theatre 3: "Mask" (Peter Bogdanovich), with Cher, Eric Stoltz, and Sam Elliott.
Theatre 4: "Desperately Seeking Susan" (†).
Theatre 5: "Police Academy 2: Their First Assignment" (Jerry Paris), with Steve Guttenberg.
Theatre 6: "Code of Silence" (Andy Davis), with Chuck Norris.

Embassy 1, B'way at 46th. (757-2408)
Through July 2: "Cannibal Holocaust."
From July 3: "Red Sonja" (Richard Fleischer), with Arnold Schwarzenegger and Brigitte Nielsen.

Embassy 2, 3, and 4, B'way at 47th. (730-7262)
Theatre 2: Through July 2: "Witness" (†). From July 3: "Red Sonja" (Richard Fleischer), with Arnold Schwarzenegger and Brigitte Nielsen.
Theatre 3: "Beverly Hills Cop" (†).
Theatre 4: Through July 2: "Pumping Iron II: The Women" (George Butler). From July 3: "Witness" (†).

Loews Astor Plaza, B'way at 44th. (869-8340)
"A View to a Kill" (†).

Loews State 1 and 2, B'way at 45th. (575-5060)
Theatre 1: Through July 2: "D.A.R.Y.L." (Simon Wincer), with Mary Beth Hurt and Michael McKean. From July 3: "Back to the Future" (Robert Zemeckis), with Michael J. Fox and Lea Thompson.
Theatre 2: Through July 2: "Brewster's Millions" (Walter Hill), with Richard Pryor and John Candy. From July 3: To be announced.

Movieland, B'way at 47th. (757-8320)
"Secret Admirer" (David Greenwalt), with C. Thomas Howell.

New Embassy 49th Street, Seventh Ave. at 49th. (757-7003)
"The Last Dragon" (Michael Schultz).

R.K.O. Century National Twin, B'way at 44th. (869-0950)
Theatre 1: "Prizzi's Honor" (†).
Theatre 2: Through July 2: "Prizzi's Honor" (†). From July 3: "The Emerald Forest" (John Boorman), with Powers Boothe, Meg Foster, and Charley Boorman.

S	M	T	W	T	F	S
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30	1	2	3	4	5	6

R.K.O. Century Warner Twin, B'way at 47th. (975-8369)
Theatre 1: "Rambo: First Blood Part II" (†).
Theatre 2: Through June 27: "Rambo: First Blood Part II" (†). From June 28: "Pale Rider" (Clint Eastwood), with Eastwood.

U. A. Twin 1 and 2, B'way at 49th. (247-1635)
Theatre 1: Through July 2: "Perfect" (James Bridges), with John Travolta and Jamie Lee Curtis. From July 3: "Day of the Dead" (George A. Romero).
Theatre 2: "Lifeforce" (Tobe Hooper), with Steve Railsback.

REVIVAL HOUSES

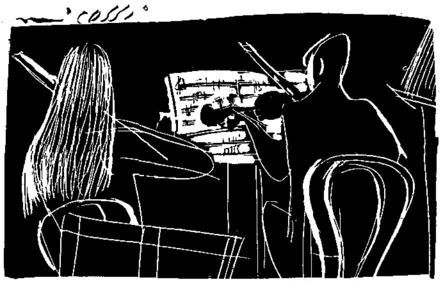
Agee Room, 144 Bleecker St. (674-2560; on Mondays through Fridays, theatre opens in the late afternoon.)
"Enormous Changes at the Last Minute" (1983; directed by Ellen Hovde and Mirra Bank).

Bleecker St. Cinema, 144 Bleecker St. (674-2560; on Mondays through Fridays, theatre opens in the late afternoon.)
"Desperately Seeking Susan" (†).

Carnegie Hall Cinema, 7th Ave. at 57th. (757-2131)
Through June 29: "Goyokin" (1969; Hideo Gosha; in Japanese).
June 30-July 1: "Vengeance Is Mine" (1979) and "The Ballad of Narayama" (1983), both films in Japanese, directed by Shohei Imamura.
July 2: "Zatoichi Meets Yojimbo" (1971; Kihachi Okamoto; in Japanese), with Shintaro Katsu and Toshiro Mifune; and "Gate of Hell" (†).
July 3: "The Makioka Sisters" (1983; Kon Ichikawa; in Japanese).
June 4: "High and Low" (1963) and "The Bad Sleep Well" (1960), both films in Japanese, directed by Akira Kurosawa, with Toshiro Mifune.
July 5-6: "The Hidden Fortress" (1958; Akira Kurosawa; in Japanese), with Toshiro Mifune.

Cinema Village, 22 E. 12th. (924-3363)
Through June 27: "The Terminator" (1984; James Cameron), with Arnold Schwarzenegger; and "Mad Max" (1980; George Miller and Mel Gibson; an Australian film), with Gibson.
June 28-29: A program of Warner Brothers cartoons.
June 30: "Faster, Pussycat! Kill! Kill!" (1966; Russ Meyer); and "Ilsa, She Wolf of the S.S."
July 1-2: "Caligula" (1980), with Malcolm McDowell.
July 3-4: A second program of Warner Brothers cartoons.
July 5-6: To be announced.

8th St. Playhouse, 52 W. 8th. (674-6515; Mondays through Fridays, theatre opens in the late afternoon.)
Through June 27: "2001: A Space Odyssey" (1968; Stanley Kubrick), with Keir Dullea and Gary Lockwood.
From June 28: "Jules and Jim" (†); and "The 400 Blows" (1959; François Truffaut; in French), with Jean-Pierre Léaud.



Hollywood Twin Cinema 1, 8th Ave. at 47th. (246-0717)
Through June 27: "Divine Madness" (1980; Michael Ritchie), with Bette Midler; and "The Rose" (1979; Mark Rydell), with Bette Midler, Alan Bates, and Frederic Forrest.
June 28-29: "Last Tango in Paris" (1972; Bernardo Bertolucci; in French and English), with Marlon Brando and Maria Schneider; and "Lolita" (1962; Stanley Kubrick), with Sue Lyon, James Mason, Peter Sellers, and Shelley Winters.
June 30: "The Godfather" (1972; Francis Ford Coppola), with Marlon Brando and Al Pacino; and "The Godfather, Part II" (1974; Francis Ford Coppola), with Al Pacino, Robert Duvall, Diane Keaton, and Robert De Niro.
July 1-2: "Star Trek II: The Wrath of Khan" (1982; Nicholas Meyer), with William Shatner and Leonard Nimoy; and "Star Trek III: The Search for Spock" (†).
July 3-4: "A Nightmare on Elm Street" (1984; Wes Craven), with John Saxon and Ronee Blakley; and "Altered States" (1980; Ken Russell), with William Hurt, Bob Balaban, Charles Haid, and Blair Brown.
July 5-6: "The Year of Living Dangerously" (1983; Peter Weir), with Mel Gibson, Sigourney Weaver, and Linda Hunt; and "Picnic at Hanging Rock" (1975; Peter Weir; an Australian film), with Rachel Roberts and Dominic Guard.

Hollywood Twin Cinema 2, 8th Ave. at 47th. (246-0717)
Through June 27: "The Return of the Soldier" (1982; Alan Bridges), with Alan Bates, Julie Christie, Ann-Margret, and Glenda Jackson; and "Les Compères" (1984; Francis Véber; in French), with Gérard Depardieu and Pierre Richard.
June 28-July 4: "Lost in America" (1985; Albert Brooks), with Brooks and Julie Hagerty; and "Vision Quest" (1985; Harold Becker), with Matthew Modine.
From July 5: To be announced.

Regency, B'way at 67th. (724-3700)
June 26: "Wild River" (1960; Elia Kazan), with Montgomery Clift, Lee Remick, Albert Salmi, Jay C. Flippen, and Jo Van Fleet; and "Panic in the Streets" (1950; Elia Kazan), with Richard Widmark, Paul Douglas, Jack Palance, Zero Mostel, and Barbara Bel Geddes.
June 27: "The Longest Day" (1962), with Richard Burton, John Wayne, Henry Fonda, and Red Buttons.
June 28-29: "I Can Get It for You Wholesale" (1951; Michael Gordon), with Susan Hayward and Dan Dailey; and "Unfaithfully Yours" (1948; Preston Sturges), with Rex Harrison and Linda Darnell.
June 30-July 1: "The Day the Earth Stood Still" (†); and "The Fly" (1958; Kurt Neumann), with David Hedison and Vincent Price.
July 2-3: "Star!" (†).
July 4-6: "The King and I" (†) and "State Fair" (1945 †).

Thalia, B'way at 95th. (222-3370)
June 26: "Trash" (1970; Paul Morrissey), with Joe Dallesandro and Holly Woodlawn; and "Flesh" (1968; Paul Morrissey), with Joe Dallesandro.
June 27: "The 4th Man" (1982; Paul Verhoeven; in Dutch), with Jeroen Krabbé and Renée Soutendijk; and "Maîtresse" (1976; Barbet Schroeder; in French), with Bulle Ogier and Gérard Depardieu.
June 28: "Dr. Strangelove" (1964; Stanley Kubrick), with Peter Sellers, George C. Scott, and Sterling Hayden; and "The Mouse That Roared" (1959; Jack Arnold), with Peter Sellers, Jean Seberg, and David Kossoff.
June 29: "Merry Christmas, Mr. Lawrence" (1983; Nagisa Oshima), with David Bowie; and "Men in War" (1957; Anthony Mann), with Robert Ryan, Aldo Ray, and Robert Keith.
June 30: "Eboli" (†).
July 1: A program of Betty Boop cartoons and a program of cartoons from the thirties.
July 2: "One Flew Over the Cuckoo's Nest" (†) and "Taking Off" (†).

July 3: "High School Confidential" (1958; Jack Arnold), with Russ Tamblyn and Jan Sterling; and "The Beat Generation" (1959; Charles Haas), with Steve Cochran, Mamie Van Doren, Ray Danton, and Fay Spain.

July 4: A program of rock videos.

July 5: "Apocalypse Now" (1979; Francis Coppola), with Marlon Brando, Robert Duvall, and Martin Sheen.

July 6: "Amarcord" (1974; Federico Fellini; in Italian), with Bruno Zanin; and "The Clowns" (1971; Federico Fellini).

Theatre 80 St. Marks, 80 St. Marks Pl. (254-7400)

June 26: "The Petrified Forest" (1936; Archie Mayo), with Leslie Howard, Bette Davis, and Humphrey Bogart; and "The Man Who Came to Dinner" (1942; William Keighley), with Bette Davis, Ann Sheridan, and Monty Woolley.

June 27: "In a Lonely Place" (1950; Nicholas Ray), with Humphrey Bogart and Gloria Grahame; and "Dead Reckoning" (1947; John Cromwell), with Humphrey Bogart and Lizabeth Scott.

June 28-29: "Roman Holiday" (1953; William Wyler), with Audrey Hepburn, Gregory Peck, and Eddie Albert; and "Breakfast at Tiffany's" (1961; Blake Edwards), with Audrey Hepburn, George Peppard, Patricia Neal, Martin Balsam, and Mickey Rooney.

June 30: "The Shout" (†); and "Don't Look Now" (1973; Nicolas Roeg), with Julie Christie and Donald Sutherland.

July 1: "Testament of Orpheus" (†), "The Blood of a Poet" (†), and "Orpheus" (†).

July 2: "The Shopworn Angel" (1938; H. C. Potter), with Margaret Sullavan, James Stewart, and Walter Pidgeon; and "The Shop Around the Corner" (†).

July 3-4: "My Man Godfrey" (1936; Gregory La Cava), with Carole Lombard, William Powell, Mischa Auer, and Alice Brady; and "Nothing Sacred" (1937; William Wellman), with Carole Lombard, Fredric March, Walter Connolly, and Charles Winninger.

July 5-6: "Wuthering Heights" (1939 †); and "Jane Eyre" (1944; Robert Stevenson), with Joan Fontaine, Orson Welles, and Elizabeth Taylor.

FILM LIBRARIES, ETC.

Museum of Modern Art, Roy and Niuta Titus Theatres, 11 W. 53rd St. (708-9490; a limited number of tickets are available to those applying for them in person at the museum after 11 on the day of the showing.)

THEATRE I: June 27 at 2:30 and 6: "The Cat and the Canary" (1927; directed by Paul Leni; a silent film). . . . ¶ June 29 at 2: "Great Expectations" (1946; David Lean), with John Mills, Valerie Hobson, and Bernard Miles. . . . ¶ June 29 at 5: "Brighton Rock" (1947; John Boulting), with Richard Attenborough and Hermione Baddeley. . . . ¶ June 30 at 2: "The Fallen Idol" (1948; Carol Reed), with Ralph Richardson, Michèle Morgan, and Bobby Henrey. . . . ¶ June 30 at 5: "Caesar and Cleopatra" (1945; Gabriel Pascal), with Vivien Leigh, Claude Rains, and Stewart Granger. . . . ¶ July 1 at 2:30: "Brighton Rock." . . . ¶ July 1 at 6: "The Fallen Idol." . . . ¶ July 2 at 2:30 and 6: "At the Crossroads of Life" (1908; Wallace McCutcheon; a silent film); and "The Avenging Conscience" (1914; D. W. Griffith; a silent film), with Henry B. Walthall and Blanche Sweet. . . . ¶ July 4 at 2:30: "L'Argent" (1927; Marcel L'Herbier; a French silent film, with French intertitles). . . . ¶ July 5 at 2:30: "Hamlet" (1948; Laurence Olivier), with Olivier, Eileen Herlie, Basil Sydney, and Peter Cushing. . . . ¶ July 5 at 6: "The Winslow Boy" (1950; Anthony Asquith), with Robert Donat, Margaret Leighton, Cedric Hardwicke, and Francis L. Sullivan. . . . ¶ July 6 at 2: "Tom Brown's Schooldays" (1951; Gordon Parry), with John Howard Davies, Robert Newton, and Diana Wynyard. . . . ¶ July 6 at 5: "The Winslow Boy."

THEATRE 2: June 27 at 3 and 6:30: "Before Hindsight" (1977; Jonathan Lewis), a documentary. . . . ¶ June 28 at 3: "Alice Adams" (1935; George Stevens), with Katharine Hepburn, Fred MacMurray, and Fred Stone. . . . ¶ June 28 at 6:30 and June 29 at 2:30: "A Midsummer Night's Dream" (1935; Max Reinhardt and William Dieterle), with James Cagney, Dick Powell, Olivia de Havilland, and Joe E. Brown. . . . ¶ June 29 at 5:30: "David Copperfield" (1935; George Cukor), with W. C. Fields, Freddie Bartholomew, Lionel Barrymore, and Maureen O'Sullivan. . . . ¶ June 30 at 2:30: "Ruggles of Red Gap" (1935; Leo McCarey), with Charles Laughton, Roland Young, and Mary Boland. . . . ¶ June 30 at 5:30: "Mutiny on the Bounty" (1935; Frank Lloyd), with Clark Gable, Charles Laughton, Franchot Tone, and Movita. . . . ¶ July 1 at 3: "David Copperfield." . . . ¶ July 1 at 6:30 and July 2 at 3: "The Devil Is a Woman" (1935; Josef von Sternberg), with Marlene Dietrich, Lionel Atwill, and Cesar Romero. . . . ¶ July 2 at 6:30: "Mutiny on the Bounty." . . . ¶ July 4 at 3: "Ruggles of Red Gap." . . . ¶ July 5 at 3: "Private Worlds" (1935; Gregory La Cava), with Claudette Colbert, Charles Boyer, Joel McCrea, and Joan Bennett. . . . ¶ July 5 at 6:30: "Alice Adams." . . . ¶ July 6 at 2:30: "Captain Blood" (1935; Michael Curtiz), with Errol Flynn, Olivia de Havilland, and Basil Rathbone. . . . ¶ July 6 at 5:30: "The Wedding Night" (1935; King Vidor), with Gary Cooper, Anna Sten, and Helen Vinson.

Whitney Museum, Madison Ave. at 75th St. (570-0537)—The final programs in a two-week series of films by black independent filmmakers. June 26, June 29, and July 3 at noon: "A Place in Time" (1977; Charles Lane) and "Death of a Dunbar Girl" (1974; Henry Miller). . . . ¶ June 26, June 29, and July 3 at 2: "Color" (1982; Warrington Hudlin) and "Bless Their Little Hearts" (1983; Bill Woodberry). . . . ¶ June 27 at noon, June 30 at 1, and July 2 at 1:30 and 6:30: "The Nightmare" (1980; John Perry III) and "A Dream Is What You Wake Up From" (1979; Sarah Gomez and Josina Michael). . . . ¶ June 27 at 2, June 30 at 3, and July 2 at 3:30: "A Different Image" (1982; Alile Sharon Larkin) and "Sky Captain" (1984; Mary Neema Barnett). . . . ¶ June 28 at noon: "From Harlem to Harvard" (1982; Marco Williams) and "Shipley Street" (1981; Jacqueline A. Frazier). . . . ¶ June 28 at 2: "The Sky Is Grey" (1980; Stan Lathan) and "Ali, the Fighter" (1971; William Greaves). Closed Mondays.

Grace Rainey Rogers Auditorium, Metropolitan Museum, Fifth Ave. at 83rd St. (82nd St. entrance on Tuesdays) (570-3949)—July 1: "Charlie Chan at the Opera" (1936; Bruce Humberstone), with Warner Oland. . . . ¶ July 2: "Barry Lyndon" (1975; Stanley Kubrick), with Ryan O'Neal and Marisa Berenson. . . . ¶ July 3: "A Farewell to Arms" (1932; Frank Borzage), with Helen Hayes, Gary Cooper, and Adolphe Menjou. . . . ¶ July 5: "Carmen (1983; Carlos Saura; in Spanish), with Antonio Gades. (All showings at 8. Tickets available one hour before performance time, on the night of the performance.)

IN BRIEF

SEE ABOVE FOR THEATRE ADDRESSES AND TELEPHONE NUMBERS.
IF A MOVIE HAS BEEN REVIEWED IN THESE PAGES DURING THE PAST TWO YEARS, THE DATE OF ITS REVIEW IS GIVEN.

Amadeus—The lofty playwright Peter Shaffer has the minor composer Salieri (F. Murray Abraham) declaring war on Heaven for gypping him, and determined to ruin the incomparable Wolfgang Amadeus Mozart (Tom Hulce) because God's voice is speaking through him. The director, Miloš Forman, trudges through the movie as if every step were a major contribution to art, and he keeps the audience hooked. Some redeeming qualities: Mozart's music, Twyla Tharp's staging of the dances and opera excerpts, and Abraham's eager, slimy Salieri. (Reviewed in our issue of 10/29/84.) (Lincoln Plaza. . . . ¶ Quad Cinema; starting June 28.)

Beverly Hills Cop—The plot is just a peg for little set pieces in which the street-smart Eddie Murphy, in his worn-out sweatshirts, saunters through swank Beverly Hills locations, tells whopping lies, and outsmarts the white dumbos. Hotfooting the picture to keep it going, he rattles off pitifully undistinguished profanity, but we're cued to react to every stupid four-letter word as riotous. With Judge Reinhold, Stephen Elliott, Bronson Pinchot, Ronny Cox, Steven Berkoff, Lisa Eilbacher, and John Ashton. Directed by Martin Brest. (12/24/84) (Embassy.)

The Blood of a Poet (1930)—Jean Cocteau's first film is an enigmatic account of a poet's dreams and ecstasies and obsession with the unknown, composed in four illogical, timeless sequences that happen in the instant that a chimney topples. The first time you see this film, you're likely to find it silly, auto-erotic, static, absurd, and you may feel cheated after having heard so much about it. But though it may seem to have no depth, you're not likely to forget it—it has a suggestiveness unlike any other film. Almost twenty years later, in "Orpheus" (see below), Cocteau orchestrated the themes of the dreams and ecstasies of the poet. In French. (Theatre 80 St. Marks; July 1.)

Butterfield 8 (1960)—The John O'Hara novel that seemed perfect for the movies, plus the role that seemed perfect for Elizabeth Taylor—and this is the garish mess it became. Daniel Mann's direction is maybe even worse than the Charles Schnee–John Michael Hayes script. With Laurence Harvey; Dina Merrill, doing a noble wife to end all noble wives; and a vacuum on the screen that is said to be Eddie Fisher. (Little Theatre, Public Theatre; starting July 5.)

Dangerous Moves—This Swiss picture is about a world-championship chess match held in Geneva between the longtime titleholder (Michel Piccoli), a courtly and cagey gray-bearded Russian Jew from the Soviet Union, and his former pupil, the handsome, high-strung challenger (Alexander Arbatt), a young Lithuanian who defected from the Soviet Union. At first, the young man's flamboyance and the older man's seething anger put us in an expectant mood, but the film turns into an uninspired account of the psychological pressures put on the contestants, who are both being manipulated by the Soviet bureaucracy. Written by Richard Dembo, who makes his début as a director. With Liv Ullmann, Leslie Caron, and Bernhard Wicki. In French. (6/3/85) (Paris.)

The Day the Earth Stood Still (1951)—Robert Wise directed this hasty sci-fi about a peace-giving flying saucer, manned by Michael Rennie, that alights on the Washington Ellipse. Quite wry and alarmingly smooth. (Regency; June 30-July 1.)

Desperately Seeking Susan—Set in the punk world, it's a mistaken-identity fantasy about doe-eyed Roberta (Rosanna Arquette), a suburban housewife in New Jersey, who becomes fixated on a drifter named Susan (played by the rock star Madonna). This attempt at screwball charm was directed by Susan Seidelman, who wipes out her actors. All their responsiveness is cut off—there's nothing going on in them. No subtext—nothing. Nobody comes through except Madonna, who comes through as Madonna (she moves regally, an indolent, trampy goddess), and the cinematographer Edward Lachman, whose lighting gives the East Village shops and streets a funky prettiness. The cast includes Robert Joy, Aidan Quinn, Mark Blum, Laurie Metcalf, and the comedian Steven Wright. (4/22/85) (Guild, Criterion Theatres, and Bleecker St. Cinema. . . . ¶ Cinema 3; through July 2. . . . ¶ Olympia Quad; June 28-July 2.)

Eboli (1980)—Francesco Rosi's thoughtful, modulated adaptation of Carlo Levi's celebrated "Christ Stopped at Eboli" carefully re-creates the textures of the remote mountain hamlet in south-central Italy to which Levi was sent as a political prisoner by the Mussolini regime in the nineteen-thirties. Gian Maria Volonte looks exactly right as the book-worn intellectual in exile, and the picture centers on Levi's wondering consideration of the silent, black-clothed local peasants, whom he saw as being equally cut off from the state, the Church, and the harsh land itself. With Irene Papas, François Simon, Léa Massari, Paolo Bonicelli, and Alain Cuny. Uncut original version, about three and a half hours. In Italian. (Thalia; June 30.)

8½ (1963)—Fellini's celebrated autobiographical phantasmagoria. Guido (Marcello Mastroianni), the director hero, is the center of the film's universe, the creator on whose word everything waits, the man sought after by everyone. He can do anything, and the possibilities confuse him. We see Guido's conflicts between his love for his wife, his desire for his mistress, his ideal of innocence, and his dreams of a harem, and we are given to understand that he must come to grips with himself as a precondition to "creation." It's a de-luxe glorification of creative crisis, visually arresting (the dark and light contrasts are extraordinary, magical), but in some essential way conventional-minded. The cast includes Anouk Aimée, Sandra Milo, and Claudia Cardinale. In Italian. (Metro Cinema; through July 2.)

Father of the Bride (1950)—Deeply conventional, plushly middle-class view of normal romance and marriage, seen from the standpoint of the banker-father (Spencer Tracy) of the bride (Elizabeth Taylor, still in her teens). It's an archetypal sitcom situation. Vincente Minnelli directed very simply and skillfully. Within its own terms, the picture is sensitive and very well done, but it's also tiresomely fraudulent—an idealization of a safe, shuttered existence. Tracy, at the center of things, gives his basic sturdy-clod performance, somewhat better modulated than usual. Elizabeth Taylor is gentle and soft-toned; she and Joan Bennett, who plays her mother, match up together neatly. Don Taylor as the groom is a mistake, though; he's so nice-boy lightweight he's like an updated David Manners. With Leo G. Carroll, Melville Cooper, Billie Burke, Moroni Olsen, and Russ (then Rusty) Tamblyn. (Little Theatre, Public Theatre; starting July 5.)

Gate of Hell (1954)—Famed for its use of color, this exquisitely stylized tragedy of passion tells a subtle story of a warrior's desire for a married noblewoman and of her way of defeating him. It's as if the director, Teinosuke Kinugasa, had read those critics who compare every Japanese movie to a Japanese print and had decided to give them more than they could handle—delicately choreographed battles, the flow and texture of garments, and everywhere grace of movement and composition. With Machiko Kyo and Kazuo Hasegawa. In Japanese. (Carnegie Hall Cinema; July 2.)

Giant (1956)—George Stevens directed this handsomely designed, big, glossy version of the profoundly second-rate Edna Ferber novel about a couple of generations of a Texas cattle-ranching family, and James Dean (in a supporting role) ran away with it. This was the last film in his brief, meteoric career, and he was dead when it was released. His appearance here is particularly startling, because he plays his misfit role in the twitchy, self-conscious, "modern" manner of the fifties, while the rest of the movie is in the conventional heavy-going style that had always been deemed appropriate for sprawling family sagas. (This one sprawls for three hours and eighteen minutes.) Yet Stevens' craftsmanship is effective at an unsubtle level, and the movie is often entertaining, with the narrative push that Ferber was so skilled at. Elizabeth Taylor and Rock Hudson are the leads; with Carroll Baker, Dennis Hopper, Rod Taylor, Mercedes McCambridge, Judith Evelyn, Sal Mineo, Jane Withers, Chill Wills, Alexander Scourby, and Earl Holliman. (Little Theatre, Public Theatre; July 2-4.)

The Home and the World—With Victor Banerjee, directed by Satyajit Ray. In Bengali. (Reviewed in this issue.) (Cinema Studio.)

Jules and Jim (1962)—François Truffaut's celebration of bohemian life in France and Germany in the years of artistic ferment between the First World War and the Second. The Austrian, Jules (Oskar Werner), and the Frenchman, Jim (Henri Serre), have a peaceful friendship. But when they are with Catherine (Jeanne Moreau) they feel alive; anything may happen. She's the catalyst, the troublemaker, the source of despair as well as the source of joy, an enchantress. Catherine marries Jules, who can't hold her, and, in despair, he encourages Jim's interest in her—"that way, she'll still be *ours*." She insists on her freedom to leave men, but if they leave her (as Jim does) she is as devastated and as helpless as any clinging vine (perhaps *more* devastated—she can't even ask for sympathy). Elliptical, full of wit and radiance, this is the best movie ever made about what most of us think of as the Scott Fitzgerald period. In French. (Lincoln Plaza; through June 29. . . . ¶ 8th St. Playhouse; starting June 28.)

S	M	T	W	T	F	S
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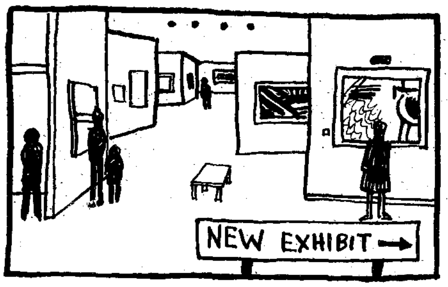
The King and I (1956)—Dopey but musically invigorating film version of the dopey musical about a king of Siam and a prissy English widow who finds the number of his wives and children amazing. Yul Brynner and Deborah Kerr play the dopes. The score is by Rodgers and Hammerstein, as if you didn't know. (Regency; July 4-6.)

Once Upon a Time in America (1984)—Just about all the incidents in this three-hour-and-forty-seven-minute film echo scenes in Hollywood gangster movies, but the director, Sergio Leone, inflates them, slows them down, and gives them a dreamy obsessiveness. His wide-screen view of a group of Jewish kids who start with petty crime and move into big-time racketeering is set in 1921, 1933, and 1968, but not in that order. This epic is a compendium of kitsch, but it's kitsch aestheticized by someone who loves it and sees it as the poetry of the masses. With Robert De Niro, James Woods, Elizabeth McGovern, Treat Williams, and Tuesday Weld. (5/27/85) (Film Forum; through June 27.)

One Flew Over the Cuckoo's Nest (1975)—Smashingly effective version of Ken Kesey's novel about a rebel outcast, McMurphy (Jack Nicholson), who is locked in a hospital for the insane. Published in 1962, the book contained the prophetic essence of the whole Vietnam period of revolutionary politics going psychedelic. Miloš Forman, who directed the movie version, must have understood how crude the poetic-paranoid vision of the book would look on the screen after the sixties paranoia had lost its nightmarish buoyancy. Set in 1963, the movie retains most of Kesey's ideas but doesn't diagram them the way the book does. Louise Fletcher gives a masterly performance as Nurse Ratched. And Will Sampson, a towering full-blooded Creek, is very impressive as Chief Broom, the resurrected catatonic. Nicholson looking punchy, tired, and baffled—and not on top of his character (as he often is)—lets you see into him, rather than controlling what he lets you see. With William Redfield, Brad Dourif, Scatman Crothers, Danny De Vito, Vincent Schiavelli, Sydney Lassick, Louisa Moritz, Marya Small, and Christopher Lloyd. (Thalia; July 2.)

Orpheus (1949)—A masterpiece of magical film-making. Though it is a narrative treatment of the legend of Orpheus in a modern Parisian setting, this film, written and directed by Jean Cocteau, is as inventive and as enigmatic as a dream. Orpheus (Jean Marais), the successful poet who is envied and despised by younger poets, needs to renew himself; he tries to push beyond the limits of human experience, to reach the unknowable—the mystery beyond mortality. Dark, troubled, passionate Maria Casarès is his Death: attended by her roaring motorcyclists, the hooded messengers of death, she is mystery incarnate. Cocteau uses emblems and images of the then recent Nazi period, merging them with more primitive images of fear—as, indeed, they are merged in the modern consciousness. With Marie Déa as the sickly-sweet Eurydice, François Périer, Édouard Dermithe, and Juliette Greco. In French. (Theatre 80 St. Marks; July 1.)



A Passage to India—This admirable version of E. M. Forster's 1924 novel about the tragicomedy of British colonial rule was adapted, directed, and edited by David Lean, who knows how to do pomp and the moral hideousness of empire better than practically anybody else around. Peggy Ashcroft comes through with a transcendent piece of acting as Mrs. Moore, and Judy Davis is close to perfection as the repressed Miss Quested, who longs for adventure; they are the two women whose attempt to get to know the Indians socially results in a charge of attempted rape against Dr. Aziz, played by Victor Banerjee, a fine, fluid actor who's like a piece of erotic sculpture. It may not be the highest praise to say that a movie is orderly and dignified, but of its kind this "Passage to India" is awfully good, until the last half hour or so; the concluding scenes wobble all over the place. The cast is just about irreproachable. It includes James Fox, Nigel Havers, Art Malik, Michael Culver, Saeed Jaffrey, Roshan Seth, and Sandra Hotz. (2 hours and 43 minutes.) (1/14/85) (Coronet; through June 27. . . . ¶ Festival; starting June 28.)

A Private Function—It never quite makes the final leap into lewd farce, but it's pretty funny anyway. The action is set in a small Yorkshire town in 1947, during the worst of the postwar austerity, and the plot involves the efforts of the local pillars of society (Denholm Elliott, John Normington, Richard Griffiths) to fatten a hidden, "unlicensed" pig for a banquet celebrating the nuptials of Princess Elizabeth and Prince Philip. They run into trouble when the pig is stolen by a mild-mannered chiropodist (Michael Palin), who is encouraged by his Lady Macbeth of a wife (Maggie Smith). The movie is trivial, but alive and unruly; the characters cheat and conspire on such a low level that it suggests "Volpone" set in a cabbage patch. With Liz Smith, Bill Paterson, and Rachel Davies. Directed by Malcolm Mowbray. (3/25/85) (Quad Cinema; through June 27.)

Prizzi's Honor—With Jack Nicholson and Kathleen Turner, directed by John Huston. (Reviewed in this issue.) (Loews 34th Street Showplace, Sutton, Loews 84th Street Six-plex, and R.K.O. Century National Twin.)

The Purple Rose of Cairo—The thirteenth movie that Woody Allen has directed, and possibly his finest creation. He wrote it for Mia Farrow, and it seems scaled to her cheekbones. The time is 1935, and she is Cecilia, who lives in a small town in New Jersey and can't hold a job for long because her thoughts wander away to the glamorous worlds she sees on the screen. Jeff Daniels plays a dashing young screen character who bounds down from the black-and-white image and into color, and takes Cecilia out of the theatre with him; he's also the ambitious young actor who arrives in the town to try to persuade the character to go back up on the screen where he belongs. Also with Danny Aiello, Stephanie Farrow, Zoe Caldwell, John Wood, Ed Herrmann, Van Johnson, and Dianne Wiest. (3/25/85) (Cinema Studio. . . . ¶ Eastside Cinema; through June 27. . . . ¶ Waverly; through July 2.)

Rambo: First Blood Part II—Jump-cutting from one would-be high point to another, "Rambo" is to the action film what "Flashdance" was to the musical, with one to-be-cherished difference: audiences are laughing at it. (They hoot at it and get a little charged up at the same time.) The proceedings are directed by George P. Cosmatos, and he gives the near-psychotic material—a mixture of Catholic iconography and *Soldier of Fortune* pulp—a veneer of professionalism, but the looniness is always there. The film's star and progenitor is Sylvester Stallone, and the way he's photographed he's huge—our national palooka. This humanoid Christ figure with brown leather skin and symmetrical scars goes into Vietnam and brings out a bunch of our missing-in-action men. The film specializes in scenes such as Rambo spread-eagled on an electrified rack, Rambo branded on the face with a red-hot knife, Rambo immersed in pig glop while hanging crucifixion style. With Julia Nickson, Richard Crenna, Charles Napier, Steven Berkoff, George Kee Cheung, and Martin Kove. (6/17/85) (R.K.O. Century 86th St. Twin, Olympia Quad, and R.K.O. Century Warner Twin. . . . ¶ 23rd St. West Triplex. No evening performances on Friday, June 28. . . . ¶ Gemini; through July 2.)

The Shooting Party—Working with Julian Bond's adaptation of Isabel Colegate's novel and a dream of a cast—James Mason (in his final movie), John Gielgud, Dorothy Tutin, Edward Fox, Gordon Jackson, Cheryl Campbell, Judi Bowker, Rupert Frazer, Aharon Ipalé—the director Alan Bridges carries the Masterpiece Theatre approach to the level of art. In the English countryside in the autumn of 1913, a large number of landed gentry, aristocrats, servants, gamekeepers, beaters, and loaders gather for a three-day shoot. Once again we get a vision of an aristocracy reduced to playing games of death, and once again a shooting party foreshadows the greater violence to come. But Colegate's tone is lightly self-mocking, and the film is full of the English affection for gentle lunacy. This is one of the rare movies that can be said to be for an educated audience without that being a putdown. As the host, an aging baronet who's conscious that he's losing his grip, Mason gives the film its immediacy. His face and, especially, that plangent voice are so deeply familiar that when we see him in a role that does him justice there's something like an outpouring of love from the audience to the man on the screen. His performance validates our feelings. Produced by Geoffrey Reeve; cinematography by Fred Tammes. (6/17/85) (Cinema I. No performances on Thursday, June 27.)

The Shop Around the Corner (1940)—Close to perfection—one of the most beautifully acted and paced romantic comedies ever made in this country. It is set in the enclosed world of the people who work together in a small department store; Margaret Sullavan and James Stewart are the employees who bicker with each other, and in no other movie has this kind of love-hate been made so convincing. Their performances are full of grace notes; when you watch later James Stewart films, you may wonder what became of this other deft, sensitive pre-drawling Stewart. As for Sullavan, this is a peerless performance: she makes the shopgirl's pretensions believable, lyrical, and funny. Directed by Ernst Lubitsch. With Frank Morgan, Joseph Schildkraut, William Tracy, Sara Haden, Edwin Maxwell, and Inez Courtney. (Theatre 80 St. Marks; July 2.)

The Shout (1979)—A poorly acted, incoherent, and unendurably loud film. Directed by Jerzy Skolimowski, it stars Alan Bates as an occultist psychopath whose shout can kill. (Theatre 80 St. Marks; June 30.)

Star! (1968)—Cast as Gertrude Lawrence in this biographical musical, Julie Andrews lacks the insolent confidence and the elusive, magical sophistication that can make mannerisms into style; she's pert and cheerful in some professional way that is finally cheerless. The director, Robert Wise, appears to be aiming for a dispassionate portrait of an archetypal empty rat-fink kind of star—a female Citizen Kane of the theatre and high society. But the ambivalence doesn't come across successfully, partly because Andrews is never convincing as a magnetic, tough-sentimental performer. Some of the best songs of Cole Porter and Noël Coward and Kurt Weill and the Gershwins are mangled, while audiences inside the movie go mad with enthusiasm. With Daniel Massey, Richard Crenna, Michael Craig, Beryl Reid, Jenny Agutter, Robert Reed, and Roy Scheider in a bit. (Regency; July 2-3.)

Star Trek III: The Search for Spock—With Leonard Nimoy at the helm, this is the first movie directed by a Vulcan; maybe we shouldn't be surprised that it's achingly prosaic. This one is really only for Trekkies; others are likely to find it tolerable but yawny. The principal diversion comes from the Klingons, a bunch of ogres whose brains appear to be on the outside of their foreheads, and their Lord (Christopher Lloyd), who manages to be droll despite the absolute nonexistence of comedy scenes in this movie. (7/9/84) (Hollywood Twin Cinema 1; July 1-2.)

State Fair (1945)—Rodgers & Hammerstein. Cheerful is probably the word for it—if you're in the mood for cheerful. The story has lost the folk humor it had in its 1933 version, featuring Will Rogers, and the Americana has been poured on. Everything is too clean and bright and smiley; it all reeks of manufacture. The principal actors trying to fake their way through are Fay Bainter, Jeanne Crain, Dana Andrews, Dick Haymes, and Vivian Blaine. Walter Lang directed. The score includes "It Might As Well Be Spring" and "It's a Grand Night for Singing." (Regency; July 4-6.)

Taking Off (1971)—Miloš Forman, the Czech director of "Loves of a Blonde" and "The Firemen's Ball," working for the first time in America. His subject is the generation gap, but he sees it in his own way; this is a very funny film, flying in the face of cant journalistic opinions, and gently finding that both sides in the generation war are old-fashioned, decorous, and intent on smallish endeavors. (Thalia; July 2.)

Testament of Orpheus (1962)—Cocteau's film, with himself as the Poet. Slightly awkward. The film is rich—too rich—in allusions to Cocteau's own earlier works and life, and the Cocteau legerdemain with disappearing and metamorphosed images seems aged and oddly spinsterish. In French. (Theatre 80 St. Marks; July 1.)

A View to a Kill—The James Bond series has had its bummers, but nothing before in the class of this one. The villain, Christopher Walken, is the ultra-blond psychopathic product of a Nazi doctor's experiments, and his major endeavor is to flood Silicon Valley. All that keeps the picture going is that it needs to reach a certain heft to fit into the series. With Roger Moore in his seventh go-round as Bond, Grace Jones, Tanya Roberts, Patrick Macnee, Patrick Bauchau, and a stunning young model named Alison Doody. Directed (dispiritedly) by John Glen. (6/3/85) (Loews Astor Plaza. . . . ¶ Loews Orpheum; through June 27. . . . ¶ Loews 34th Street Showplace, Loews New York Twin, and Loews 84th Street Sixplex; through July 2.)

What Have I Done to Deserve This!—This Spanish film by the bad-boy writer-director Pedro Almodóvar has an Off Off Broadway informality. It's a generally likable dadaist farce about working-class family life in Madrid's housing projects—huge block buildings of dinky, cramped apartments. The heroine, Gloria (Carmen Maura), drags herself through eighteen-hour days with the help of No Doz and an occasional sniff of glue or detergent. Her taxi-driver husband is a gifted forger and is involved in a scheme to fake Hitler's memoirs. The picture is like a slaphappy comic-strip version of "The Threepenny Opera." In Spanish. (6/3/85) (Quad Cinema; through June 27.)

Witness—An eight-year-old Amish boy (Lukas Haas), on his first trip to a city, sees a murder taking place in the men's room of Philadelphia's Thirtieth Street train station. In order to protect the boy and his widowed mother (Kelly McGillis) from the killers, the police captain (Harrison Ford) who's in charge of the investigation tries to hide their identities, and, with a bullet wound in his side, drives them back to their farm in Lancaster County before he collapses. Directed by the Australian Peter Weir, the movie seems to take its view of the Amish from a quaint dreamland, a Brigadoon of tall golden wheat, and to take its squalid, hyped-up view of life in Philadelphia from prolonged exposure to TV cop shows. With Alexander Godunov, Patti LuPone, Josef Sommer, Danny Glover, and Jan Rubes. (2/25/85) (D. W. Griffith, 23rd St. West Triplex, and Embassy.)

Wuthering Heights (1939)—Laurence Olivier has said that in this film the director, William Wyler, taught him how to act on the screen, and there's no doubt that as Heathcliff he shows new passion and power. Unfortunately, Merle Oberon's Cathy—though exquisite—lacks the complementary passion; she's a bit chill and dainty. But it's a beautifully made gothic-romantic classic, with many memorable scenes. The cast includes Flora Robson, David Niven, Geraldine Fitzgerald, Donald Crisp, Hugh Williams, Leo G. Carroll, Miles Mander, and Cecil Kellaway. (Theatre 80 St. Marks; July 5-6.)

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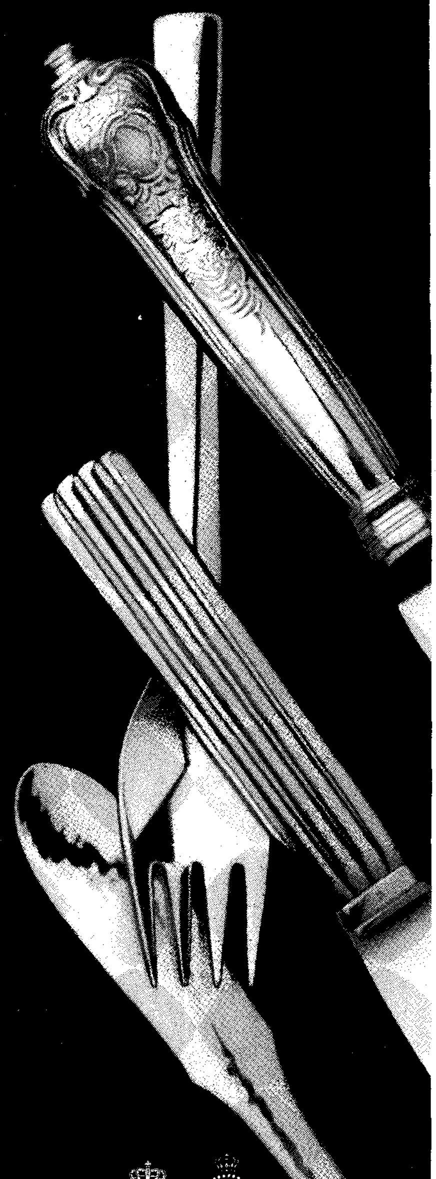

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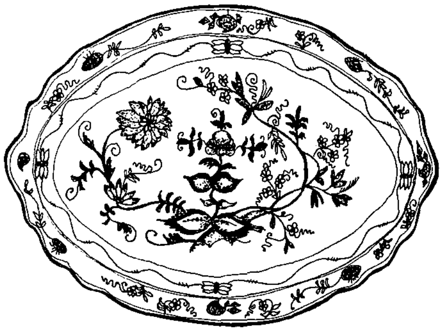
THE TALK OF THE TOWN

Notes and Comment

WE have received the following communication from a woman we know in New Mexico:

A friend has written me from the country in upstate New York that she's in love and gardening, too—having already gathered in snow peas and stalks of asparagus—and another friend is at Yaddo reading Dante and perfecting her swimming crawl, which she reports is much admired there; because I've neither been in love nor had my swimming admired much lately, I am afraid of how I would feel if I were not in the middle of a storm that made itself known in the desert a few minutes ago as a soft, premonitory electric blaze, a lightening and enlivening of the air which caused, like a field of Christmas trees, a skin-prickling, delighted need to sniff. The air near the earth, blank and simple all morning, had been secretly building up a kind of needling pressure that would have to find release; everything—magpies, mares, sheep, and Brahma-eyed cattle, even the children alighting from the yellow school bus—knew that, and everything was waiting. This waiting took place directly under a sky of hallucinatory blue—a blue that is easier to accept in the distance, and especially at a great distance, than it is immediately overhead. It was really as if all light had turned blue, or as if the spectrum of visible light had developed a blue undertow. For an instant, all shadows were whittled and fine. Then came stunning thunder, and rain flashing sidewise quietly—quietly, that is, given the murderous long rattles of anticipation. On the windows, the rain dried in dashes, the dashes righting themselves—no, laid over, even before they'd dried, by urgent upright strokes of more rain, an intoxicating straight-down rain that strummed along the roof, beating through the small leaves of the fruit trees, and let up slightly, after two or three minutes, into pouncing, sporting gusts of rain that set the heads of the foxtail grass darting like schools of minnows, with the snagged nimbleness of a loosely consolidated, unthinking mass, responsive to some gesture conceived in the mass and carried out to its feathery edges but unevenly executed, the gesture appearing as a shaggy fold, a climbing roll working swiftly through stems and slim leaves, the grass heads swinging wildly one way, then the opposite, and seeming to find, among different directions, no preference, so that the wild swinging was all pure mobility, yet anchored, and beautiful to watch in a way that anything that could have run away (a herd of horses, say; anything with intention) would not have been. There was an unearthly moment when the grass all quaked flat and was held down; this moment was full of suspense. Then the grass came up in a cloud, the cloud's shape repeating, as it rose, the ground's contours, and shifting the contours forward in a long, lapping swell that was finally broken, in a containing caress and light backwash, by the walls of the arroyo.

This is what it is doing here now: a series of variations carried out by grass, wind, rain, and light—something that is brief-lived by nature, that will be long vanished by the time you hear of it, a summer storm absorbed by the desert, the planet turned several more times around.



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Evermore

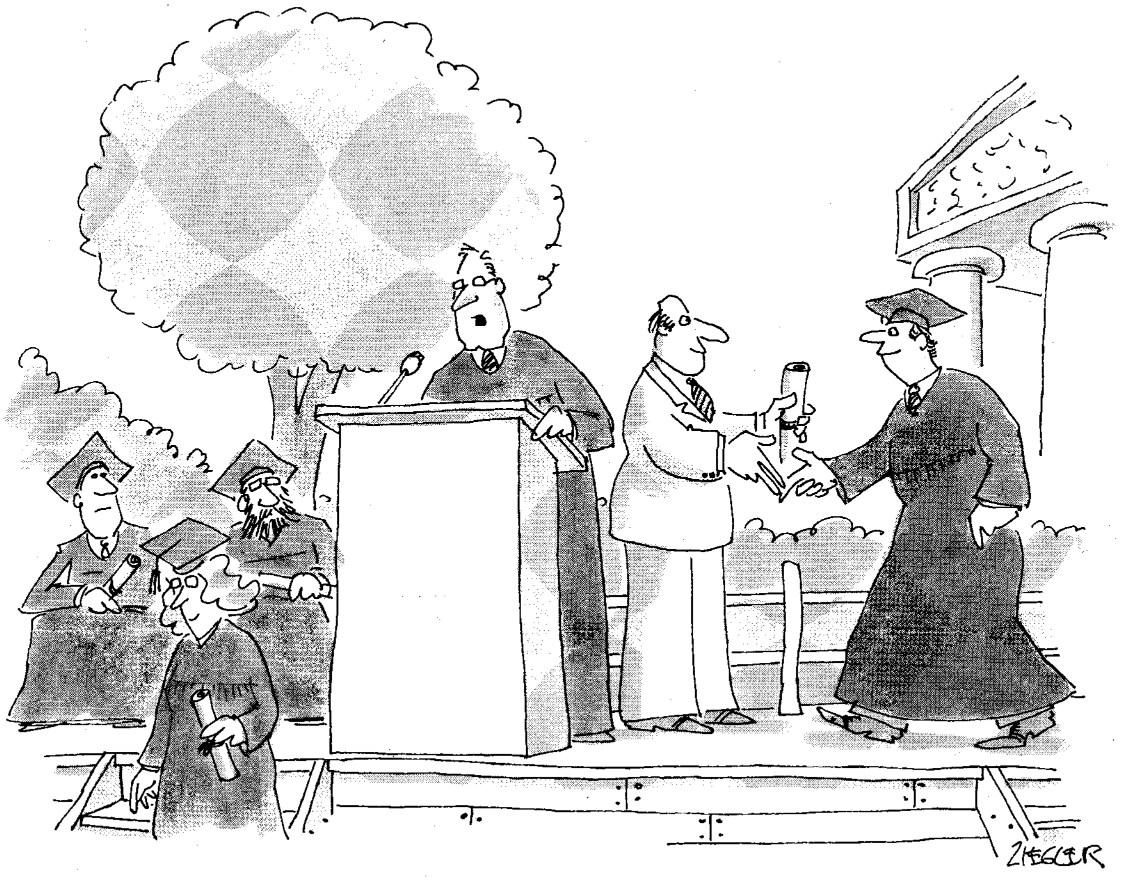
IT was not exactly a bleak December—ah, distinctly we remember—but, rather, a cool spring day when we read in the *Times* about the election of Herman Melville and Edgar Allan Poe to the Poets' Corner at the Cathedral of St. John the Divine. The Poets' Corner, we learned, originated a year ago—a boneless American counterpart to Westminster Abbey—with the installation of Walt Whitman, Emily Dickinson, and Washington Irving. (That poetic license is proper in the use of the word "poet" in a Poets' Corner goes without saying.) The *Times* report had appeared at the back of the Sports section, behind the TV listings, adjacent to a review of a seven-hundred-pound—oops—seven-hundred-page bio of Norman Mailer, and above an account of a financial squeeze at an artists' haven. Poe and Melville, no strangers in their day to financial squeeze, are now, it seems, "two giants of 19th-century American literature" elected by thirteen "distinguished authors" to membership in "this symbolic pantheon of American letters." Not only that but it was Herman Melville Week, to be celebrated with the designation-by-street-sign of Herman Melville Square (actually the intersection of Twenty-sixth Street and Park Avenue South) and a ninety-minute documentary on Channel 13. Unceremoniously, we headed uptown to the pantheon with Poe in mind.

We remembered the Raven, of course, and the beautiful Annabel Lee, but bright sunlight and the perverse materiality of our fellow-passengers on the No. 7 bus conspired to forestall the approach of even these familiar eidolons. "Man is now only more active—not more happy—nor more wise, than he was six thousand years ago," Poe once wrote. This certainly seemed to be the case on Amsterdam Avenue that day. Passing a funeral chapel, however, made it easier for us to submit to a dread that was not exactly a dread of physical evil—to entertain horrific visions of "the crawling shape" and "vermin fangs" of the Conqueror Worm, and the ghastly resurrection of Ligeia. To read a poem or a story by Poe in these dry times, it is necessary only to loosen the mental screws to accommodate his extravagant language and sense of "hideous drama." What would *he* have thought of the Poets' Corner, who wrote, a hundred and forty-four years ago, that "among all the pioneers of American literature, whether prose or poetical, there is *not one* whose productions have not been much overrated by his countrymen." It would be hard to overrate, we thought, a story as beautifully measured as "The Masque of the Red Death," or as bold as "The Tell-Tale Heart," the monologue that opens with "True!—nervous—very, very dreadfully nervous I had been and am; but why *will* you say that I am mad?" One example of Poe's exactitude as a writer and critic, and perhaps of his sense of humor, too, may be found in an essay on punctuation in which he defends the dash, as having a force no other point can have: "It has its phases—its variation of the force described; but the one principle—that of second thought or emendation—will be found at the bottom of all."

What was it, we paused to ask ourself as we stood on the sidewalk at 112th Street—what was it that so unnerved us in the contemplation of the cathedral, those massive stone towers eternally under construction? Probably not the immanence of Roderick and Madeline Usher—probably just the high-school students sprawling on the steps of the west façade, indifferent for the moment to God and American poets. We entered. "One of those piles of commingled gloom and grandeur" was the phrase that occurred to us. Deep into that darkness peering, we spotted a color-coded, numbered plan, from which we chose an indirect route, up the nave and down the north aisle, with a side trip to the gift shop. This we found to be a serene spot—though not hideously so, as Poe once described the sea—with chocolate cathedrals for sale, along with such more traditional items as sweatshirts, books, and jam. At last, with eight dollars and eight cents' worth of guidebooks in hand, we sought out the appointed shrine.

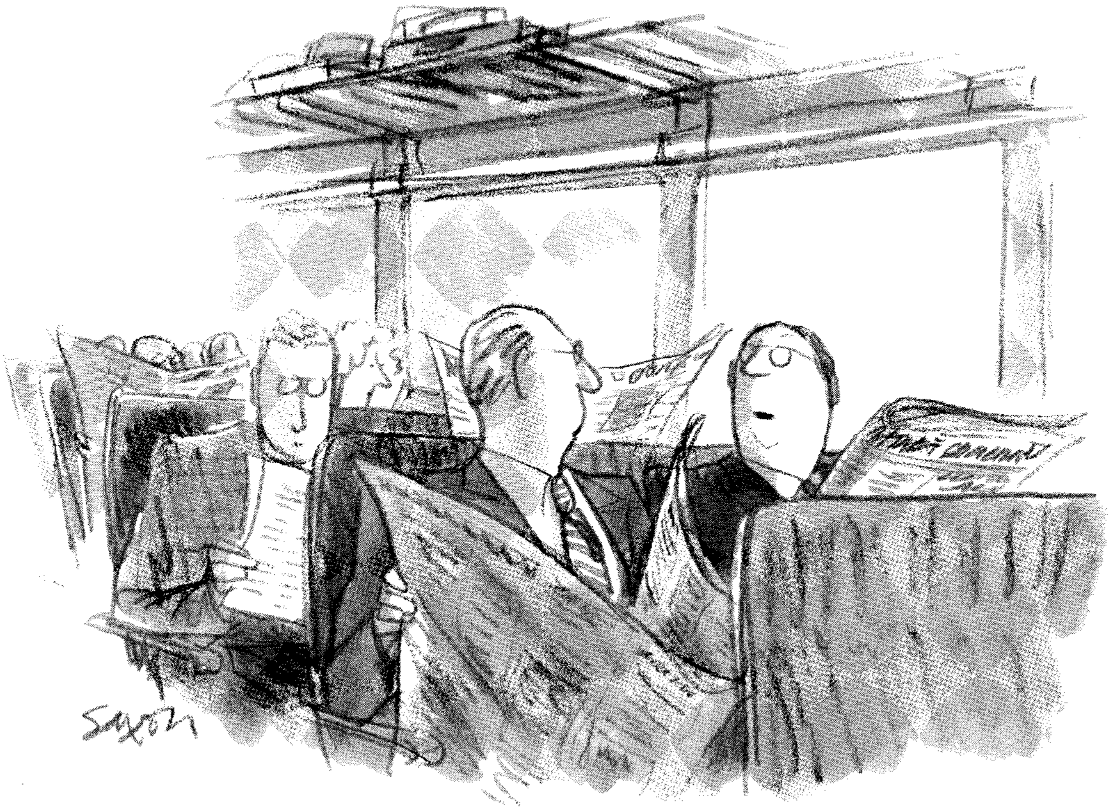
Not a corner at all but a recess, a bay, it was deserted—devoid of even a trace of the phantasmagorical presences of the immortals, not to mention those of the mortal poets who had read (so recently!) from their works, or of the novelist who had introduced a poet to a Dean to get the whole thing started a couple of years ago. The spot was marked by the words "The Poets' Corner, dedicated to American Literature," cut into the stone wall at the back, along with an unattributed quotation that featured the word "inditing." Five gray tablets had been set into the floor, inscribed with the names and dates of Whitman, Dickinson, Irving, Melville, and Poe. Mysteriously, an exclamation mark was appended to the name Dickinson. Poe's tablet also bore a quotation, "Out of Space—Out of Time," from his poem called "Dream-Land."

By a route fairly obscure and lonely (haunted by ill angels only), we headed home. Poe would be pleased to have beaten Longfellow into the pantheon, having spent considerable energy denouncing him, while they both lived, for plagiarism and other faults. Poe thought well of himself. In an anonymous review of "Tales" by Edgar A. Poe, he commended himself for ingenuity, clear and forcible style, fidelity of description, and, above all, originality. Whereas Poe was born in Boston (1809) and died, at an unripe age, in Baltimore (1849), he lived on Carmine Street, in the Village, in 1837; in a farmhouse near Eighty-fourth Street and Broadway, now marked by a street sign, in 1844-46; and for the next three years or so in a cottage in the Bronx, which has been declared historic and has been preserved not far from its original site. As we crossed Edgar Allan Poe Street on the down-



"And, finally, a Bachelor of Arts degree to Anthony Zungolo, the absolute last of the Baby Boomers."

town bus, we were reading a story written by Poe when he lived in that neighborhood, "The Facts in the Case of M. Valdemar," which ends like this: "Upon the bed, before that whole company, there lay a nearly liquid mass of loathsome—of detestable putrescence." Nearly liquid—what a touch!



"Caught van Gogh. Caught Rousseau. Missed Caravaggio."

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Patent Pending

ONE night recently, we got to watch forty-two-year-old David Stein create gigantic bubbles, with diameters of up to eight feet, using ordinary dishwashing soap and a hand-operated device he's invented and christened a Bubble-Thing. The bubbles—he also calls them "flying Henry Moores," because they come out in unpredictably shaped blobs, resembling anything from whales to tractor tires—rose on the amiable updrafts of his West End Avenue launching site, then tended to drift, laterally, toward a nearby apartment building, where Mr. Stein, who asked us to call him David, lives, and where, incidentally, some early Bubble-Thing prototypes were tested. ("I always put out a sheet in the hallway to catch the drips," he assured us.) Eventually, after a life span varying from five seconds to well over a minute, each bubble burst. "Bubbles seem to implode," David told us as he continued to create new air sculptures. "They can pop inches from a wall without wetting it," he added, and that observation helped to keep us from flinching as much as we might have when, later, a colossal low-flying ottoman, hypnotizing us with its frantic surface colors, borrowed from an adjacent traffic light, burst immediately before our eyes.

Essentially, David Stein's Bubble-Thing consists of a tube of thin, clear plastic, about the length of a cane, with a loop of cloth cord attached at one end. Operating the apparatus doesn't require any old-fashioned blowing: basically, one holds the tube horizontally; dips the closed cord loop into a bucket containing a soap-and-water mixture; lifts it out; opens up the soapy loop by pulling a plastic ring along the tube (it's like sliding a shower-curtain hook along a shower rod); and, finally, swings the open loop through the air, gently, to produce a whopper.

David was raised on a cattle ranch in Montana, just north of Yellowstone Park. When he isn't involved in the development of his Bubble-Thing, he is an architect. He recently designed a dining garden next to the Loeb Boathouse, in Central Park, and was one of the winners of the Times Tower design competition sponsored by the Municipal Art Society. That's some of what we learned an hour before the outdoor bubble-making demonstration, while we were sitting across from David in his kitchen and talking, over Heinekens and some Oreos he pulled from a special hiding place that his four children have yet to discover. The more David told us about himself, while occasionally stroking his beard (curly and brown and just covering the open top button of his khaki work shirt), the more sense it seemed to make that *he*, of all people, would be the one to invent a Bubble-Thing. Three things he said stood out in particular. One: "I was always the kind of kid who was totally wrapped up in science projects. In high school, I won the geology prize in the Montana State Science Fair for four years running—always with different crystal projects. We had calcite mines right there on our ranch in Montana, and for a while my ambition was to be a crystallographer." Two: "I'm always designing things. I have a whole file full of designs in my office. Some of them came from when we had our little girl, Kayla. When she was a baby, she'd cry sometimes because her pacifier had fallen out, and she didn't have the coördination then to pick it up and put it back in her mouth. For a while, I was buying lots of pacifiers and cutting them up and assembling them into little octahedrons of nipples, so they would be more accessible to her." Three: "Kayla loved the dime-store variety of bubbles we'd buy her. Then my wife was always going on about what great bubbles an old boyfriend of hers had made once with a frying pan and a bent coat hanger. So by coming up with the Bubble-Thing I was able to put the legend of the boyfriend's bubbles to rest."

Pretty soon, we moved on to David's office, which had various Bubble-Thing components spread out on most flat surfaces. While we looked through a plastic shopping bag full of samples of every type of cord—and even chain—that David had had to test to find just the right one, he told us about a step in the patent search conducted by him and his attorney: "I went down to the Patent and Trademark Office, in Washington, to see if anything like my Bubble-Thing had ever been patented. The lobby had a terrific exhibit of famous inventions, like Edison's light bulb and McCormick's reaping machine. It was like a hall of fame for inventors, and there I was, walking through it with the idea for my Bubble-Thing. Later, in one of the little corridors, I found the metal file that contained all bubble-related patents. Sliding out that box of bubble ideas, I felt like the guy in '2001' removing more knowledge from Hal the computer. There was a big stack of patents, but there was nothing like my Bubble-Thing." David smiled.

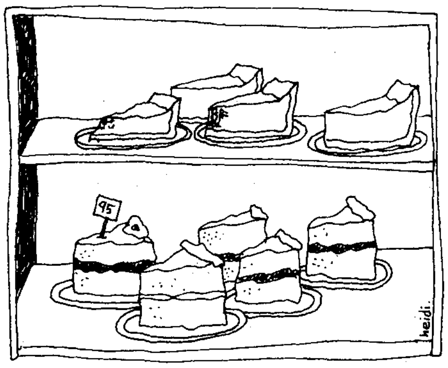
With his patent safely filed and pending, David has perfected his own large-scale production of the Bubble-Thing, and has recently started selling it through the mail. The very first Bubble-Thing he ever put in the mail went to a kid in Salina, Kansas, who was entering a science fair and whose project involved bubbles. "I rushed that one right out," David said. "I remember how important science fairs were to me. The Thing is creating quite a stir in Salina now, I understand."

Rappers

MUSIC video is just about everywhere these days. As we strolled in the plaza east of the World Trade Center the other afternoon, we saw about a dozen well-dressed young people standing near a black granite sculpture throwing banknotes into the air and chanting, "Money, money! We don't care!" A movie camera was trained on them, and a number of earnest-looking bluejeaned people were scurrying about, and after a thousand-dollar bill had wafted past our feet—a fake one, we ascertained—we asked a young man in a tweed cap what was happening. He turned out to be Tom Hayes, the co-owner of a company called Music Motions, which specializes in music videos that are shown as short subjects in movie theatres, and he told us that his crew was doing the final day's filming on a video that would attempt to spoof rap music, break dancing, Wall Street, and yuppies. "The video will be called 'Wall Street Strut,'" he said. "We hope to have it ready for release to theatres in a few weeks. Afterward, we may release it to MTV or other cable channels, although in many ways it's different from the usual stuff you see on music TV. This one is funny, and it's actually got a story. We think it's got real viability."

Hayes hurried over to the well-dressed group and began conferring with some associates. Soon he shouted "Roll camera!" and the group began chanting euphorically about stocks and bonds. A blond young woman dashed by and started giving instructions to performers—she was Michèle Kadison, the video's choreographer—and other members of the crew walked around the plaza gathering up the fake money, which was being scattered by the wind. Before long, we fell into conversation with Jim Steele, a young free-lancer, who was producing the video. We asked him how the project had originated.

"The truth is, I came up with the idea at a party last Christmas," Steele told us. "I happened to be wearing a three-piece suit and carrying a briefcase, and there was music playing, and, for some reason, I got inspired to go into a sort of break-dance contortion, and then I started rapping—kind of the way they do in ghetto-inspired rap music. Well, I was with a guy named Tony Seideman, of *Billboard*, and he watched me and said, 'Jim, that's a very amusing concept you have there. What is it?' Well, I didn't know *what* it was. I just laughed, and said, 'I'm a Wall Street Rapper.' Later, he and I sat down and started discussing it, and we thought it would be fun to do it on three-quarter-inch video, just as a joke. Then Music Motions came along. Pretty soon, we got a musician on it—a composer who goes by the name Marteen—and then an actor friend of mine named Ted Henning wrote some rap lyrics that are just great. Ted plays the lead in the video, and he's perfect for the role, since he worked in the financial district before he decided to concentrate on acting and modelling. Anyway, the idea just kept getting bigger. Before long, it went to sixteen-millimetre, and now we're doing it in thirty-five, with a twenty-four-track Dolby stereo mix."



An assistant came over and asked Steele where an actress was who was supposed to repeat "Dow Jones" as an obbligato to the rest of the chanting. After pointing her out, Steele continued, "'Wall Street Strut' will run about four and a half minutes, and it will tell the story of a yuppie stockbroker who freaks out in his office one day. He's overburdened with work, and all of a sudden he throws everything down and jumps up and goes into a sort of break dance. Well, from this a rap group develops within his firm—a bunch of young guys who call themselves the Wall Street Rapper and the Corporate Rappettes—and the next thing you know they achieve great fame. We did a lot of filming in the offices of Henderson Brothers, the brokerage firm. They *loved* the idea. We also filmed some scenes in Harry's, on Hanover Square—a restaurant that caters to the Wall Street crowd."

As the actors portraying the Rappettes began to chant "Wanna trade, trade, trade!" Steele went over to speak with Tom Hayes, and we walked to the curb, where a blue limousine was parked. Leaning over and talking with some actors inside it was the video's director, a dark-bearded, intense-looking man named Jenő Hódi. He told us that he is a native of Budapest, is thirty-one, has been in this country three years, and is studying film with Miloš Forman at Columbia University. "Miloš came to see the first day's rushes, and he really liked them," Hódi told us. "I see this video as a sort of rock-and-roll comedy. So few music videos *are* comedies. And we think it also has great potential as the basis for a feature film or a television sitcom."

Suddenly, Jim Steele darted past us. Trotting over to two impeccably tailored, briefcase-carrying men who were heading toward an entrance to the World Trade Center, he engaged them in conversation, and within a minute he had recruited them as extras for the next scene. Later, we asked Steele whether he ever had trouble getting nonactors to participate in his project.

"It's the simplest thing in the

world," he said. "We've already used thirty or forty real Wall Street people in this video, and we could easily have got hundreds more. We've been filming down here for about a month now, and word has spread through the financial district, and sometimes it seems as if the entire stockbroking fraternity wanted to get into this thing. In fact, after working on this video I've become convinced that there's an actor lurking under every pin-striped suit in town."

In the Doldrums

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The Funniest Person in America: Certain Questions Answered

IF you call the funniest person in America (selected not long ago by Showtime pay-television service after a nationwide search) and he isn't home, what does his machine say?

His machine says, "You have reached the home of Phil Nee. No one's home to take your message right now. Please do leave a message; it can be as long as you feel is necessary."

How did Phil Nee become America's funniest person?

"I auditioned in August of last year, live. I could have submitted a videotape, and that might have been better, because I would have had more control. Though I guess, since I won, it couldn't have been *much* better. Anyway, I was announced as a state winner in April, and then they narrowed it down to six to twelve people—I'm not sure of the number—and showed them to a celebrity panel, and the next thing I knew they'd called me up and said I'd won."

What was so funny?

"I opened with a bit about a Crazy Eddie Christmas sale done in Spanish—Loco Eddie."

The first steps on the road to the title of America's funniest person—what were they?

"I was at the Improv one Tuesday night with some friends, and they volunteered me to go up onstage. I was nervous. I was literally shivering. Partly, that was because the air-conditioning was turned up pretty high. But it went well."

How is it being America's funniest person?

"I'm a little wary of the title. It's hard to judge who the funniest person in America is. This contest was only open to amateurs—one of the rules was you could not have appeared on national television. Some people from the David Letterman show are interested in my act. I'd love to go on the show, but as 'Phil Nee, comic,' not 'Phil Nee, the funniest person in America.' "

Height

PEOPLE everywhere are about the same, except in one respect, we realized last week when we dropped by the National Basketball Association Draft at Madison Square Garden. If someone is seven feet tall, he is only a foot longer than someone six feet tall. Theoretically, a foot is only twelve inches, but then theoretically a liberal-arts education is a good preparation for life. In reality, a man like Patrick Ewing, who stands seven feet tall, is a different sort of man. Ewing and his like—Jon Koncak and Benoit Benjamin and Bill Wennington and Uwe Blab, not to mention Manute Bol, who is seven feet six—move in a wonderful, articulated fashion. If you watch a lot of public television, you understand that the mud at the edge of the mangrove swamp *teems* with superbly adapted life, and also that the brain, a marvellous instrument that permits the English accent, signals to the limbs to act in an instantaneous way. But if you're seven feet tall it is like calling overseas. The limbs ponderously extend and retract, and the body seems to set up camp in the middle of each giant stride.

At the draft, all the blue-chip prospects sat in the front few rows of the Felt Forum, waiting to be picked. Ewing, of course, went first, carefully raising himself out of his seat while the crowd cheered. After each player was selected, he went into a roped-off interview area, where scores of reporters crowded around the group asking questions. As the afternoon wore on, and the reporters started to leave, we could see that the players were not standing on a platform, as we had thought. To be seven feet tall is to be a human dais.

Outside the employees' entrance to the Garden, a knot of people, most of them teen-age boys, analyzed the picks.

"Patrick be *big*," said one.

"He be big *plus*," said another.

A man with a brown shopping bag motioned us over. Inside the brown bag was a white bag, and inside the white bag, carefully folded, was an authentic Oscar Robertson road jersey, from Robertson's days with the Royals. "This is Oscar's sweat, this stain," said the man. "I got this from a Knick ball boy, and didn't never think I'd be selling it, but my pocket is telling me I better."

A woman, a sub-six-footer in her mid-twenties, asked us who had drafted Joe Dumars, the hot-shooting McNeese State guard. We told her Detroit, and she winced. "Joe's my brother, and I wanted him near to home," she said.

THE HOUSE FRIEND

We were sitting in the Café Piccadilly, Max Stein and I, and our talk turned to married women with lovers tolerated by their husbands. "House friends" we used to call such men in the Yiddish Writers' Club. Yes, women—what else could we have talked about? Neither of us was interested in politics or business. I noticed that the men at the other tables were reading the stock and bond reports or the horse-racing results. The women were flipping through illustrated magazines with photographs of princes, princesses, murderers, adventurers, film actors. From time to time, they took out lipsticks and little mirrors and smeared their lips, which were already crimson red. Why do they do it, I asked myself. Whom do they want to impress? The men were all elderly, with gray hair on their temples. If they ever looked up from their newspapers it was to light a cigar or to rattle a spoon against a glass to signal the waiter for the bill. Max Stein, a frustrated painter, tried to make a drawing of me on a sketch pad, but without success. He said to me, "One cannot draw you. Your face changes every second. One moment you look young, another moment old. You have peculiar tics. Even your nose changes from minute to minute. What were we talking about?"

"About house friends."

"Yes, yes, yes. I say something and I lose track of it immediately. Sometimes I'm afraid that I'm getting senile. Men who tolerate house friends know exactly what's going on. They are not deceived for a minute. It is a real need. One day they get married and the next day the house friend appears on the scene. As a matter of fact, they anticipated his coming long before the wedding. These are people who are bored to death with themselves. Such men could only marry women with the same temperament and inclinations. Love is supposed to be an instinct, but what is instinct? Instinct is not blind, or what they call unconscious. The instinct knows what it wants and plans and calculates perfectly. It is often shrewd and prescient. Schopenhauer dwells constantly on the subject of blind will. But will is far from blind—the very opposite. The intellect is blind. Give me a cigarette."

"The pack is empty," I said.

"Wait a minute." Max Stein went out to buy a pack of cigarettes. He returned and said, "It looks like rain. When I was a boy of sixteen, I was already somebody's house friend. His name was Feivl and I was still called Mottele, not Max. My parents were poor, but Feivl's father owned a dry-goods store on Gesia Street. Feivl was always loaded with money. He went out with a girl by the name of Saltcha, and I was, as it were, the house friend. Every evening they went to a delicatessen for frankfurters with mustard and a mug of beer, always insisting that I come along. I used to ask him, 'What do you need me for?' And he would answer, 'It's awkward for me when we go alone. What can you say to a girl? I ask her about her home, her parents—this, that. But right away she begins to yawn. Somehow Saltcha has got accustomed to you. When you can't come, she makes excuses not to go. She must wash her hair, she has a headache, her shoes have suddenly become too tight, she has an errand to run for her mother.'

"One place or another, we always went as a threesome. On the Sabbath, after the *cholent*, he took Saltcha to the Yiddish theatre on Muranowska Street and he always bought tickets for the three of us. I used to tease him: 'Aren't you ever jealous?' And he said, 'Jealous? Why? Saltcha just loves your company. Everything you say is charming. When you are with us she is in high spirits. She's talkative, she laughs, jokes, and she is good to me, too. Without you, she gets nasty and picks on me.' Once, I asked him, 'What will happen when you get married?' And Feivl answered, 'You will have to visit us every day.'

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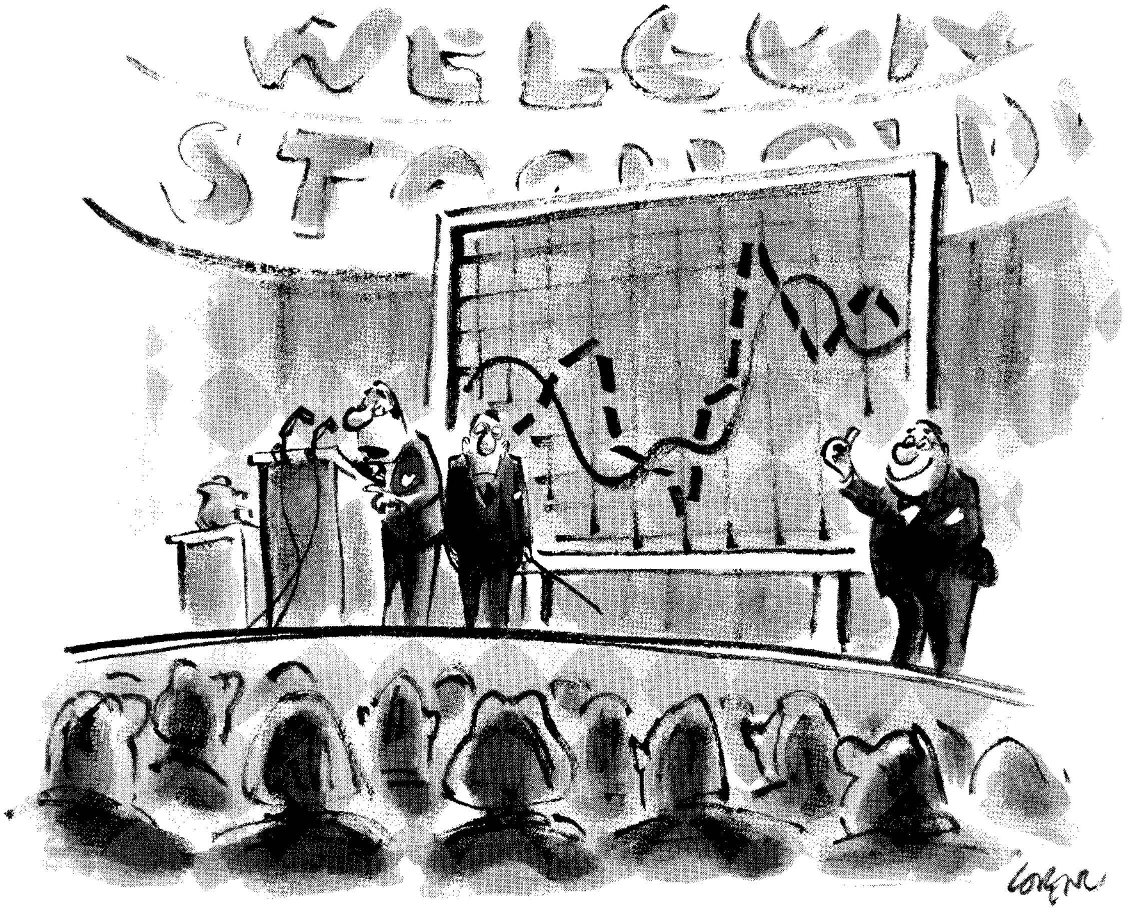
STEVENSON

"And so it was. Saltcha, too, came from a wealthy house. Her father gave her quite a large dowry. The wedding took place in the Vienna wedding hall, and I was the best man. I had already begun to paint, and Feivl commissioned me to paint Saltcha's portrait.

"It was fashionable even in those days for a married couple to go on a honeymoon. Feivl and Saltcha's had to be delayed, for some reason, but when at last they were settled they chose Druskieniki—a resort on the River Niemen—and you won't believe me, but man and wife insisted that I join them. When Saltcha's mother heard this, she created an uproar. 'Are you all three going crazy? People have large eyes and long tongues. They will say the worst things, and you will be the laughingstock of the town.' Saltcha's father was too caught up in his business to be bothered. As for my parents, they couldn't care less. I had already moved out, and there were younger children to worry about. We were poorer than poor and not overly pious. Besides, who cares about the purity of a son? To make it short, Feivl and Saltcha went to Druskieniki, and I went with them. Stop smirking. What you think happened did not happen. At least not then. But I had already kissed Saltcha many times in Feivl's presence and he always encouraged me. If we met and I forgot to kiss her, Feivl would remind me. Wait, I will light a cigarette."

Max Stein lit a cigarette and continued, "There are men and women who don't know what jealousy is. They must share love, and, besides, they never suspect anyone. My theory is that every human being is born with all his idiosyncrasies and caprices. Napoleon in his mother's womb was already what he would become, and so were Casanova, Rasputin, Jack the Ripper, as well as such geniuses as Shakespeare, Tolstoy—you name them. You may say that there are other factors involved—environment, education, all those phrases of the sociologists—but the way I see it, everything in man is ready-made. Why do frost designs appear on windowpanes every winter exactly like bushes and flowers swept away by a hurri-



"As we run down the figures, Mr. Fell will do the play-by-play, I will do the running commentary, and Mr. Russell will provide the color."

cane? Why are all the snowflakes hexagons? They say that the molecules always form the same pattern. But how do the molecules remember to retrace last year's pattern? I have pondered these riddles from my childhood. In all my years I continued to make my own plans, but it always happened that I became somebody's house friend. I grew so accustomed to married women that when a woman told me she was single she became *a priori* taboo. Can you understand this?"

"One can understand anything," I said.

"How do you explain it?"

"One gets conditioned."

"Is that all?"

"If you insist, I can call it a complex."

"Well, you are a cynic," Max Stein said. "At my age that isn't bad, but at your age one shouldn't be cynical. Freud was in his own way a great person. The fact that so many of his disciples are idiots isn't his fault. All disciples are idiots. What were Tolstoy's followers? What are the Marxists? What are the Chassidim who wrangle and push to pick up the holy crumbs from the rabbi's banquet? What are those would-be artists who imitate Picasso or Chagall? They're a flock of sheep, and they're always driven by a dog."

"What happened with Feivl?" I asked.

"Nothing happened. Such people live out their lives in peace and quiet. He was a bore, and after a while Saltcha became like him. They had six children and all of them took after him, not her. When you told them to sit they sat, and when you told them to lie they lay. They went to school and the *Gymnasium*. One of the boys studied to be a physician. Another became a lawyer. It was all perseverance."

IT began to rain outside and it thundered. Night fell. The daytime patrons gathered up their newspapers and magazines and left. The waitresses took off the red tablecloths and the ashtrays and spread out white tablecloths and silverware. The café became a restaurant. Max Stein and I decided to remain for dinner. The crystal chandeliers were lit, and in their light Max Stein's face appeared yellowish and his hair white. He straightened his tie and said, "Why creep around in the rain and catch cold? We don't have wives and children. Since you want to be a writer, I have more stories for you than Scheherazade had for her sultan. I could have written them myself, but I prefer a brush, not a pen. Besides, many of these people are still alive and they would recognize themselves. I don't want any scandals. I have come to one conclusion: that in life there are no rules. Beautiful women remain alone until they turn gray and wither, while ugly ones nab rich husbands and have lovers in addition. For years I was convinced that a woman could run away either from a husband or from a lover—not from both of them. But I was wrong. When I saw it happen, I realized you can never be too clever.

"The husband was a dentist and had a weakness for painting. All day long he stood at his chair and drilled teeth. In the evening he was transformed into an artist. He wanted me to teach him, but all he could do was imitate others. He had a pretty little wife—Hanka, about twelve years younger than he. For a time she was his nurse. Then she manipulated him into getting another nurse in her place, and when I began to teach him she, too, became my pupil. Things were easier for her than for him. He stood on his feet all day long, while she had a maid. Men are weaklings and women wheedle anything out of them with a smile or a love pat. He not only loved her, he worshipped her. Hanka this, Hanka that. He was dying to hear me say she had talent, and I said so, for his sake. She began to smudge one abominable canvas after another, and covered the walls with them. She ran to all the exhibitions in the Zacheta and the galleries and aped everybody. She read all the articles and reviews in the newspapers and magazines and babbled the jargon of the critics. Cubism? Let there be Cubism. Expressionism? Let there be Expressionism. All her heads came out square, and the noses as well. Chagall painted his Jews and deer flying in the air, and Hanka mimicked him. People of that sort are so greedy for compliments that they beg for them shamelessly, and if they don't get them from others they praise themselves to the sky.

"I started up with her not because of love or passion but because Morris—this was the dentist's name—actually maneuvered us together. At every opportunity he spoke to me of how rich the soul of an artist is and how difficult it is for an artist to become accustomed to one person only. Such men are not just tolerant, they push their mates to betray them. What Feivl did out of naïveté, Morris did with deliberation. He wanted me to sleep with his wife, and he got what he bargained for. She also wanted it, to keep pace with the other artists who had affairs. It was the fashion with the so-called progressive element. She attended all their meetings, marched in their demonstrations, and ended up by running away with a low-life fellow—a knifer, an enforcer in the porters' union. This was something Morris and I did not expect."

THE PUBLIC GARDENS

Someone might mistake the shadows
of the loners for sleeping animals,
the darting light for a bird of prey.

The palms shiver reflections
across the fountain, and the goldfish
glide through channels of algae.

On wet evenings they jump for
cigarettes or gum; in a drought
they surface belly up, full of death.

Ancient architects centered this city
around the Public Gardens—the dark
hub to a wheel of radiating streets.

They run fast and straight for miles,
but at the city limits
they go black, they empty.

Around the fountain the weeping willows,
filled with nightingales, glint
like cages in the moonlight.

Under the cones of lampposts
the statues of nymphs and satyrs
survey the blue trees

where the solitary lovers
and the lost children—
all those who have paid dearly

for their corner of the night—
curl into the shadows
like cats and count the stars.

A single guard is asleep at the gate,
dreaming of the treetops like wavelets
rippling under alpine winds,

and of the city's dead
in garish dress, waving to the statues
from their funeral trains,

and of the river beyond the suburbs
where the boulevards end,
where the air is black and rainy

and the foliage opens like a curtain
onto millions of bright flowers.

—Nicholas Christopher

• •

"Where did she run?" I asked.

"Where did they all run?" Max Stein answered. "To the land of socialism, to the Communist paradise. It happened suddenly, like thunder on a sunny day. Little heads can be turned easily. She grabbed her things, left an abusive letter calling us Fascists, exploiters, imperialists, provocateurs. They ran to Nieswiez, at the Polish-Soviet frontier, and from there they smuggled themselves into Soviet Russia. The Polish guards let them cross without any difficulties. How they were accepted in Russia I learned years later. This was long before Comrade Stalin's purges and the Moscow trials, but even then they put them all into prison. While these slaves were falling on their knees kissing the socialistic dust, some *Chekist* or soldier of the Red Army appeared and said, '*Poidyom*—let's go.' Idealism is fine, but a few months in the Lubyanka prison was the ordinary reception for an idealist. I was told that all of them were finally sent to Siberia to dig gold."

For a long while we sat quietly, and Max Stein tried to balance a fork on the edge of his plate. The fork fell, and Max Stein murmured, "*Nu.*"

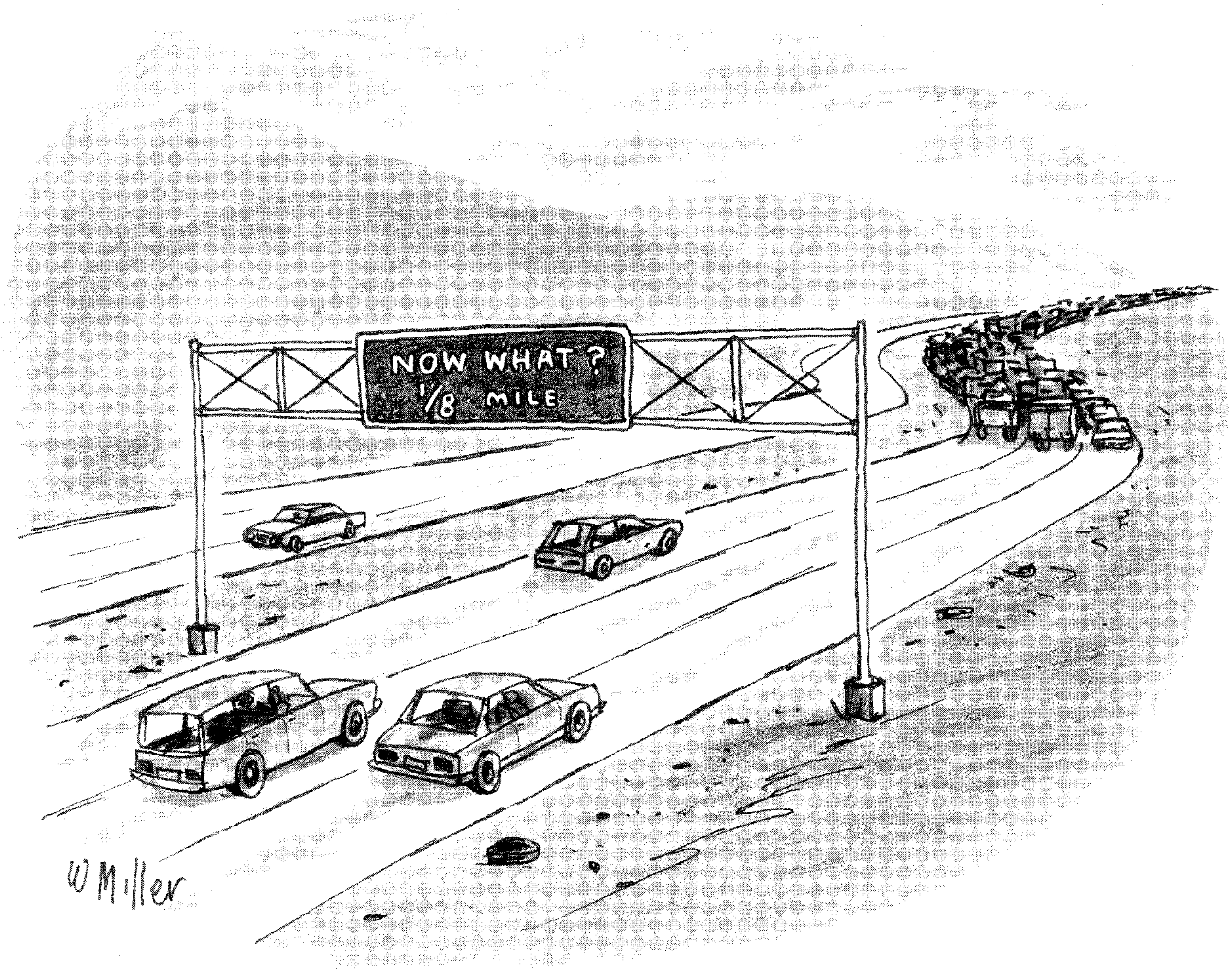
DUBLIN
PIPES
&
TOBACCO
LONDON
OPEN
Stuart Leeds

"What happened then?" I asked.

"What could have happened?" Max Stein said. "We were surprised and stunned, but how long can you be surprised and stunned? The first thing Morris did was rip her paintings off the walls and throw them into the garbage bin in the yard. I saw it all through the window. I expected someone to take them, but it seemed the tenants were not interested in Cubism, Expressionism, abstract art. They just stood there and gaped. There was not much time for Morris to brood. Patients had appointments and he had to see them. I heard them ask, 'Where is your wife?' and he replied, 'Out of town.' I still had a room somewhere, which I called my atelier. Since Hanka had left, there was no reason for me to remain with Morris and I told him the time had come to say goodbye. But he said to me, 'You, too, are running away? You'd better stay here.'

" 'What for?' I asked. 'To sit out the thirty days of mourning?' And he said, 'I'm not going to stay alone forever. Sooner or later, I'll find someone. I don't want to lose both of you.'

"It may sound like a joke, but I waited for Morris to get married so that I could again be his house friend. You're laughing, huh? I could laugh



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myself. Human life is not only tragic but also utterly comic. The room I called my atelier was small and dark. In the winter it was as cold inside as outside. I'd gone through a spiritual crisis a number of years before, and I had lost my desire to paint altogether. I certainly couldn't get a model to sit for me in that miserable hole. Morris had a comfortable home. It was light there and warm."

"Why didn't he marry his nurse?" I asked.

"This is exactly what he did," Max Stein answered. "Not immediately. It took him a few months to decide. Perhaps he tried to get a better-looking woman. Milcha, as she was called, was not a beauty. She had come from the provinces to Warsaw to study but without any means. She had taken a course in the Wszechnica, a folk university you could enter without credentials. I'll tell you something that will sound completely crazy. Because Milcha was a single girl, and not somebody's wife, I had no yen for her at all, but I knew that Morris would be forced to marry her sooner or later and so I developed an appetite for her. I started to compliment her, to praise the beauty she didn't have, and I offered to teach her a little painting. I even began to kiss her in Morris's presence. When Morris saw this, he confessed to me he had been in love with Milcha for some time. Love can be very pragmatic, even made to order."

"How long did you stay with them?" I asked.

Max Stein thought it over. "A number of years," he said. "It's actually difficult for me to give you a precise answer. While I was with them I became a house friend at another home. I became like a yeshiva boy. I ate in one house and slept in another. You could write a book about it. I became such a specialist that when I met a couple and spoke a few words to them I could sense whether they were looking for a partner."

"People like that are all homosexuals," I said.

"What? These are just words, names," Max Stein said. "What people really are they don't know themselves. The fact is that we all are searching. No one is happy with what he has. A day after the wedding both sides begin to search, the husband as well as the wife. To me this is the naked truth."

—ISAAC BASHEVIS SINGER

(Translated, from the Yiddish, by the author and Lester Goran.)

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CONSTABULARY NOTES FROM ALL OVER

[From the Blotter in the Goleta (Calif.) Sun]

At 2:55 p.m. a 45-year-old woman reported that some dogs on Scripps Crescent have disturbed her by barking for the last seven years.

BLACK HOLES

Juniper and Jade Clark, who are twins, hog the windows in the station wagon's back seat, so that Fanny Giles, unwilling to climb over Jade's legs to get to the middle, is stranded for a moment on the school sidewalk. "Get in, Fanny," Mrs. Clark urges from behind the steering wheel. "Don't be shy." She leans forward and squints until she can see Fanny, whose red hair, backlit, has been drawn into a severe French braid that makes her small, sharp face even smaller and sharper; the wan, nutmeg freckles are so numerous that there are stray flecks between the spikes of her lower lashes. Her upper lip has the dusty cast peculiar to fair redheads, but her eyes are dark and the wings of her nostrils are pinkened as if by a cold. Looking at Fanny, Mrs. Clark thinks two things: Fanny is scared, and Fanny's mother must have been a fox.

"That's not shy," Jade says. "That's stupid. Climb in, Fanny-Panny. Nobody's going to tell on you. That's the law of the car pool."

"Tell what?" Mrs. Clark says as Fanny works her way into the seat. "No, don't say a word. I don't want to know."

"Oh, God!" Jade says. Fanny has nicked Jade's leg with the corner of her lunchbox, and a small hole blooms in the knee of Jade's black tights.

"No profanity in this car, not while I'm driving," Mrs. Clark says. "I don't care what your father lets you get away with."

Juniper breathes a cloud across her window and writes "Adam." Jade, after glancing over her shoulder, fogs her window and writes "Adam Loves Jade." Juniper makes tongue prints; Jade draws a dozen deft "X"s, for kisses. Caught between them, awed by the twins' cold second-grade glamour, Fanny feels herself whittled down to a ragged scarecrow, with the note that her kindergarten teacher asked her to take home weighing like lead in her pocket. When Mrs. Clark brakes the station wagon abruptly and faces Fanny, Fanny wishes she could either disappear or turn into one of the twins, who are paying no attention to their mother.

"Hey, Fanny," Mrs. Clark says. "That's your new house, isn't it?" She points. Fanny looks up a sweep of gopher-pocked lawn to the house, its long porch trimmed with weathered gingerbread; there is a pane missing in the window to the left of the front door. She nods yes.

"So?" Mrs. Clark says.

"So?" Jade echoes, absently mocking her mother, then writing on her window, "Boring!!"

"So do you think you'll like living there, Fanny?" Mrs. Clark persists.

Juniper erases her window with the heel of her hand. "What if she doesn't—what's she going to do about it?"

"I like it," Fanny says softly.

"We're going to miss you," Mrs. Clark tells her. "We'll miss coming home from school with you."

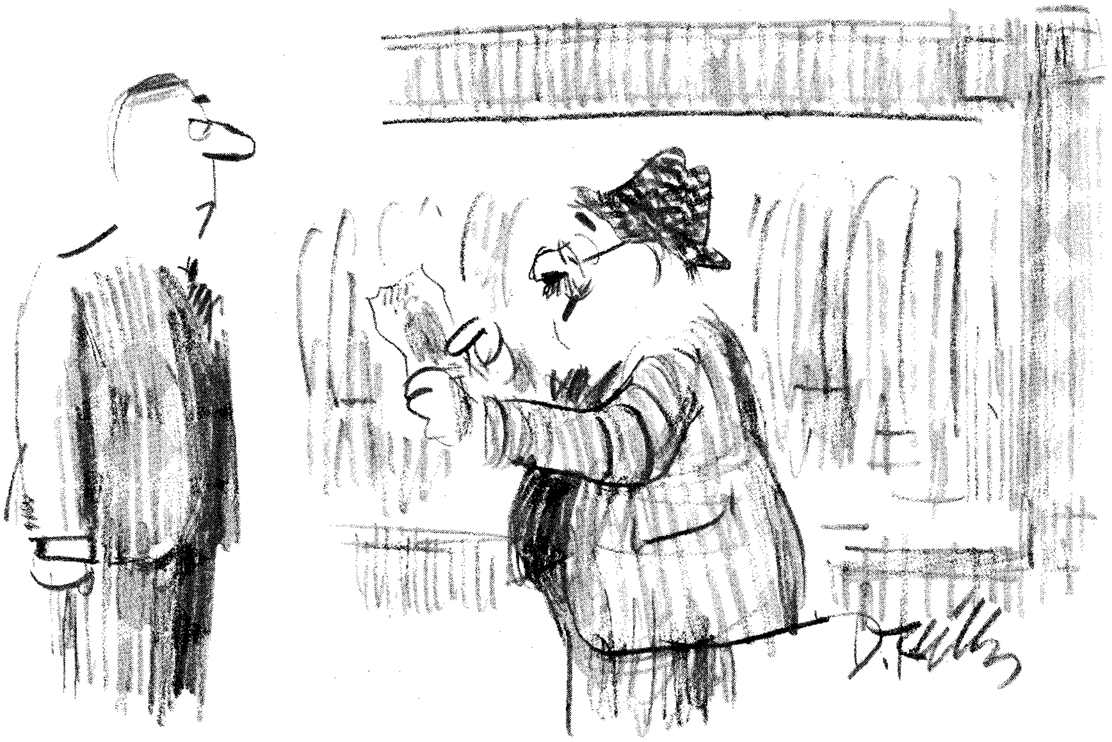
"I won't," Jade says.

Biting her lower lip to concentrate, Juniper writes in the fog on her window, "Help!"

Saturday morning, Will Giles blows the blue-black husks of dead flies from the channel in the window sash before gently pressing the new pane of glass into place. His reflection slants across it—a dark-haired man on his knees, looking hopeful. The glass fits, and the panes of the tall sidelight to the left of the front door are complete. He smiles over his shoulder at Fanny, who is sitting on the porch railing swinging her heels, and then he knocks on the door. "In a week, you'll be inside, and maybe you'll hear somebody knock, and you'll feel nice and safe because you know whoever's there is knocking on solid oak. Isn't it a great front door, Fanny?"

Fanny is five, child of a marriage Will thinks of, with a blitheness he would immediately distrust in one of his analysands, as well forgotten. In fact, he has a recurring dream that he is in a booth trying to find enough change to call Oklahoma City, where Ally has lived since the divorce. She didn't think it very likely that she would keep in touch with him or Fanny. Ally had wanted to make a clean sweep of her previous existence and she seems to have stuck by that resolve. Will hasn't heard from her in a year.

Fanny is rocking on the railing, left leg cradled to her chest, the knee tucked under her



"Your 'classic navy wool overcoat that offers warmth and authority'—I'll have one of those."

chin. He reaches for a screwdriver, and taps her foot with it. "Hey, you look a little precarious."

"I can sit like this hours and not fall."

"Don't be so hard on my heart, Fanny."

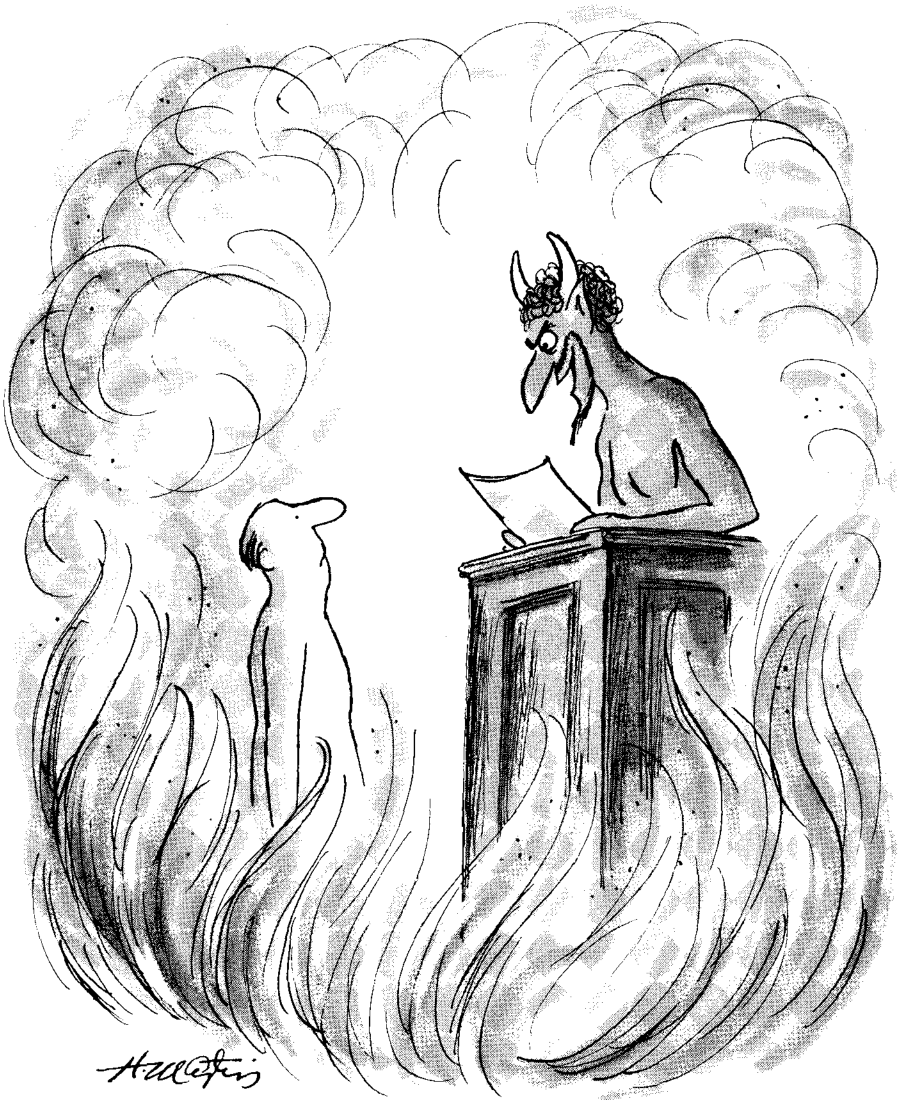
She straightens, going as primly alert as if an invisible book had descended to her head, and squeezes first one dirty sneaker, then the other, into the narrow gaps between the spindles that support the railing, daring him to tell her not to do that, either; when he doesn't, she looks satisfied, and locks her feet, toed in, behind a peeling spindle.

"Thank you," he says. "Once this is finished, your house is going to be in good shape." Since she's been coming here with him on Saturdays, he has taken to calling it her house. A truer joke might be that for a long time to come this is going to be the bank's house. His second wife, Carrie Ann, argued that they couldn't keep Christopher's crib at the end of the hallway for long, that a baby and a five-year-old really need a room each. This costly Victorian, with its leaks and loose shingles, with swallows' nests suspended in its sooty chimneys, was her solution. Will is not in love with it, not the way his wife is, but he has begun to feel for it that involuntary affection sparked in him by things badly in need of repair.

"I thought there was still lots of stuff to do," Fanny says.

He begins to limn the new pane with the tube of glazing compound. "No," he says, "this is all I wanted to get to"—and feels pleased and provident, having timed the last urgent repair for the last Saturday before they move in.

She jumps from the railing and slides by him, leaving the door open. With a razor blade he trims a gauzy line of glazing compound into a neat margin, pausing now and then to admire the door, which, because a shaft of sun has crossed the porch, blazes: old oak with its curls and knots and close grain, the gold hidden within the sombre wood like flakes of precious metal in a stream, cartwheeling to the surface in certain lights, subtly lost from it in others.



"I'm pleased to say, Mr. Mulrooney, that all your tax data—checks, vouchers, W-2s, and 1099s—from 1928 through 1984 have been forwarded to us."

He finds Fanny in an upstairs room that smells of drafty wallpapered emptiness, her chin on the windowsill, chipping paint away with her thumbnail. Peels of paint lie on the sill and the floor. "Hey," he says. "You didn't swallow any of those, did you?"

She shakes her head, chin pivoting on the sill, her nose nearly touching glass. "I don't eat paint," she says, with dignity.

"I think about things like that, *chico*. I'm a father." He sits in a corner, deciding from her silence that she should have his entire attention. Since Christopher was born, he has too often felt he had nothing left over for Fanny—though he swore that would never happen. "So how are you?" he says. "How's school been?"

To his surprise, she pulls a folded slip of notebook paper from her pocket. "My teacher said I had to give you this."

"What is it?"

"I can't read writing yet. Only printing." She drops it to the floor.

He picks it up and begins to crease it into an airplane. Should he open the window and let it fly? "But you didn't like the idea of giving it to me?"

"I was going to. I was waiting."

He tucks the airplane into a pocket, walks to her on his knees, and waits for her to turn her head, but she doesn't; at arm's length, she is so still he can hear pigeons walking on the wooden shingles of the roof. "Tell me something, Fan," he pleads. "Have I seemed far away lately?"

"No."

"Because I want you to know you can always find me. Have you felt, maybe, that it's been hard to get my attention?"

"You're just you."

"Yes," he says, "but is that good or

bad?” He pretends the end of her braid is a paintbrush and traces the corner of her mouth with it. “No answer, huh?” He tickles under her pale jaw until she has to smile. He says, “I can see you want me to fear the worst.”

“Fanny’s in a little trouble in school,” Will tells his wife from the bedroom doorway. He has been prowling the lawn, as he does when he is uneasy, pulling up dandelions. Before marrying for the second time, he had tried to think it all through from Fanny’s perspective, hoping to anticipate where the dangers for her would lie. He had come to the conclusion that there was another sort of risk, perhaps less immediately obvious, in her feeling that she had been responsible for keeping him from marrying again, and that in neither condition, married or unmarried, could he absolutely guarantee her safety. Yet he hates saying “Fanny’s in a little trouble” so much that for an ominous moment he dislikes everything—past, present, and opalescent future; first wife, long gone, and second wife, regarding him sleepily; this house and the forlorn, mortgaged Victorian. In the bed, Carrie Ann wakes enough to turn her cheek to the baby’s round forehead and direct her dark gaze, made darker by dilating pupils, at her husband, disliking him back in a rudimentary but very effective form of self-, and baby-, defense.

“She brought home a terrible note,” Will says.

He rubs a knuckle against the door latch, meaning *Is this loose?*; it is not. Carrie Ann, thrusting two fingers into the Pampers, smiles to find the powdered bottom dry. These simultaneous small discoveries dissolve the anxiety between them. Will continues to click the latch, but now simply for the sound it makes, and because he likes latches, locks, lintels, dowels, and bolts.

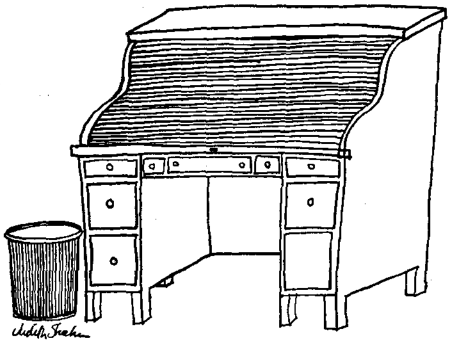
“Fanny in trouble?” Carrie Ann fits the tip of her pretty nose into Christopher’s ear, and he opens his eyes and looks questioning. So often the mood of one is either a premonition or a minutely lagging echo of the mood of the other.

“Nothing too serious.”

“But *some*thing.”

“Something,” he agrees, and is halted by the intentness of the baby’s nearsighted stare. Carrie Ann cups the back of the baby’s head so that he seems a bald, bewildered old man gazing at the doorway. He has no eyebrows. “You should see him from here,” Will says. “He looks like Einstein thinking about ice cream.”

Carrie Ann licks the nearly invisible down above the perfect, almost comically precise, ear. Then, alternating licks with shaping strokes for which she uses the inside of her wrist, she flattens the tufts at the crown of the head. A fist floats her way, opening into a starfish of sticky fingers, each of which she sucks in turn, causing—Will can see it, though she can’t—the corners of the mouth to turn down in sober baby pleasure, the peak of the upper lip to glisten. Until the amniocentesis, Will had been frightened because he wanted the baby so badly yet believed in spite of himself that something would turn out to be wrong. He had urged the test on Carrie Ann, although she was thirty-two and her obstetrician didn’t recommend amniocentesis until the woman was thirty-four. Will held her hand when, in the sonogram, the fetus appeared. He searched the screen for a fist, a foot, a tiny penis, but there was only the grainy, flickering C of the fetal back turned toward them. The baby oil that had aided in the conduction of the sound waves was washed from Carrie Ann’s belly, the needle dived delicately in, delicately out, and the nurse said it was over.



Once they knew the baby was all right, and that it was a boy, Carrie Ann mused through the rest of the pregnancy, talking to her belly, praising its kicks. What Will sometimes wonders is: Did the baby—or fetus—forgive him, and did he do something he ought to be forgiven for? He finds it interesting that the first question always precedes the second, and whenever he attempts to phrase them to himself in the more logical order they resist. They freeze exactly where they are.

Now when Will gets up in the night and pads down the hallway, the baby sometimes tries to nurse from his father’s chest (is that forgiveness?), the corky nipple, hidden within a whorl of dark male hair, hardening helplessly as the hungry vacuum fastens upon it, and remaining there, stinging between the silky gums, until

ACCUSATORY POEM

Like shifting chips of brilliant colored glass
Seen through the eye of a kaleidoscope
Your moods are prisoned in a mirrored space

Where, self-regarded, changing images
Form fragments of imagined lives and hopes
Like shifting chips of brilliant colored glass.

Though God’s eye’s light seems your eye to suffuse
With images that fill the mirrors up,
Your moods are prisoned in a mirrored space

Whose meanings you self-servingly assess
Forging your weapons of a deathly scope
Like shifting chips of brilliant colored glass

That are let fly to injure those who pass
Who lend an eye of kindness or friendship.
Your moods are prisoned in a mirrored space,

Therefore I shield my eye from the eyepiece
Lest sharpness be the injury I keep.
Your moods are prisoned in a mirrored space
Like shifting chips of brilliant colored glass.

—Barbara Gibbs

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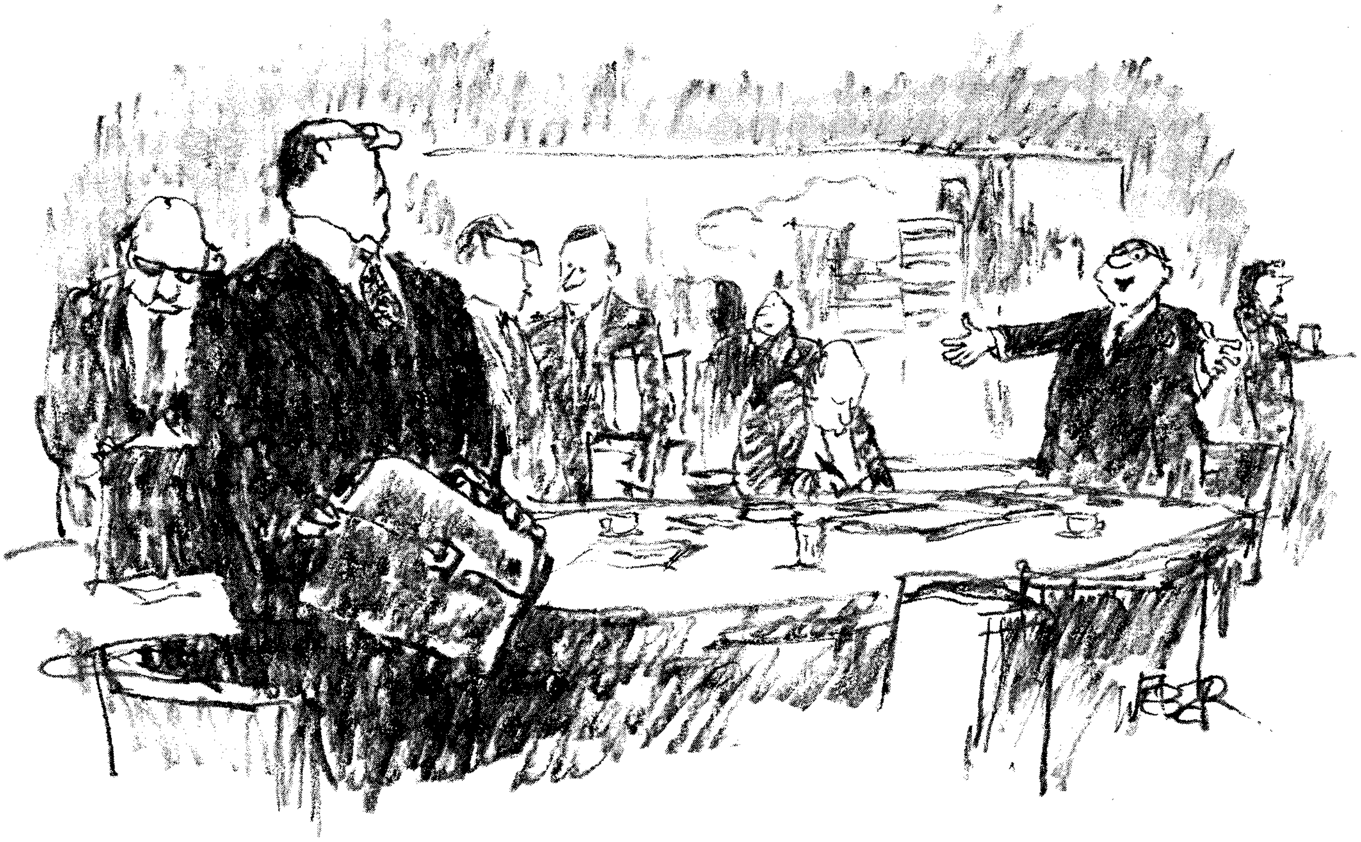


"Now that the merger is completed, Stahlmeyer, how's about a hug?"

• •

the baby exhales it with a sigh of disappointment. The baby's head makes a snug, familiar fit in Will's left hand, and he rocks Christopher close to his chest down the long unlit hall. Once, half asleep, he caught himself whispering, "It's me. It's me. Me," to the small face.

He was far too young, too unsure of himself, to be so available when Fanny was born. There is a little scene that unreels now and then in his mind: Fanny, her chin in her palm, telling her psychiatrist how distant her father was, how she could never seem to reach or please him, and her psychiatrist nodding gloomily. For some reason, Will finds this fable of the future reassuring. Perhaps it is because (at twenty? at nineteen?) Fanny is beautiful, or because psychiatry is his profession and she has turned to it, which would seem to imply she hasn't rejected him completely. It's not as if, in his mind's eye, she were without hope. So now he rattles the latch again and lets the note fall to the quilt. "You're not going to like it," he warns.

DEAR DR. AND MRS. GILES:

Ordinarily, we ask parents to come in so that things can be discussed face to face, but I know how busy you must be with the new baby. I am aware that a new baby in the household is a real test for everybody and that the natural tendency might be to leave a self-sufficient child like Fanny on her own more often, but my feeling is that something is worrying Fanny. She is such an achiever that her recent unwillingness to participate in class discussions, and her confusion when called on, really stand out. She has also been responsible for a series of small thefts. A paperweight belonging to another girl, and some other little things, were found in her coat pockets.

These things seem so unlike her they may be symptoms of some deeper problem, and I wondered if you'd agree to have Fanny talk to our school counselor, Mr. Yatsumoto?

Best wishes, and congratulations,

DELIA DORSEY

"What a bitch," Carrie Ann says. "Delia Dorsey. What a funny mix of accusation and flattery this is. I think this entire letter is evidence of a truly small mind at work. I mean, it really depresses me to think that Fanny has fallen into her hands." Christopher mews for her breast. She rakes up her T-shirt and lets the breast descend. "She'll see Mr. Yatsumoto over my dead body."

"You know," Will says, "I thought the only thing wrong with moving was that Fanny would have to change schools."

"I hate this," Carrie Ann says, reading over the baby's head. " 'Symptoms of some deeper problem.' If only someone like Delia Dorsey had been around to finger the young Richard Nixon, we'd never have had to go through Watergate and be disillusioned as a nation. She obviously doesn't know the first thing about Fanny. Do you want to know one reason I fell in love with you so fast? Because you were alone and yet you had this bright, serious, *serious* little girl, and I thought, He must be doing something right."

"Not anymore I'm not." Will lies down on the bed with the interesting sensation that he is trapping Carrie Ann, keeping her in place, because she is under the quilt and he is on it. The baby's head doesn't turn, though his temple pulses with the quick, small sucks that have drawn the nipple into his mouth. "I think I must be doing something pretty wrong. Haven't you noticed a change? Fanny's almost stopped confiding in me. That's never happened before."

Carrie Ann strokes his forehead and he smells baby on her wrist. "Oh, Will. Maybe it was time for it to happen.”

“I don’t believe that.”

“Some things are inevitable, but you don’t believe that, either, do you?”

“I think believing that is a way of giving in.”

“If I think about it too long, I’m going to get really furious at Delia Dorsey and Mr. Yatsumoto, and then my milk will stop.”

He stands up, the mattress creaking. “I’m going,” he says. “We can’t have your milk stopping.”

“Will?”

He is in the doorway. “What?”

“Now I feel guilty.”

“Don’t feel guilty,” he says.

ON Fanny’s quilt, pink with indigo stars of eight points each, Will turns on his side and sings into her hair,

The fox went out on a dreary night
And he prayed for the moon to give
him light—

“Stop,” Fanny says. “I don’t like that anymore.”

“You don’t?” He pretends astonishment, thinking astonishment is what she wants, but really he is used to things changing fast. She has never been one for the same fairy tale night after night. “How about another song?”

“No.”

“Want to read ‘East of the Sun, West of the Moon’?”

“No. Dad?”

“Nnnnn-nh?” He *loves* her hair: fine, red-gold, kinky, the neat part white as bone and so sweet-smelling. Adult hair was never like that.

“How far is it from here to my house?” Fanny asks.

“Not so far.” He remembers a story a patient told him—how the patient’s daughter had been struck with grief because the family’s battered old Volkswagen was about to be sold. “You mean you’d like to come back sometimes and see this place?”

“Can’t I, if I want?”

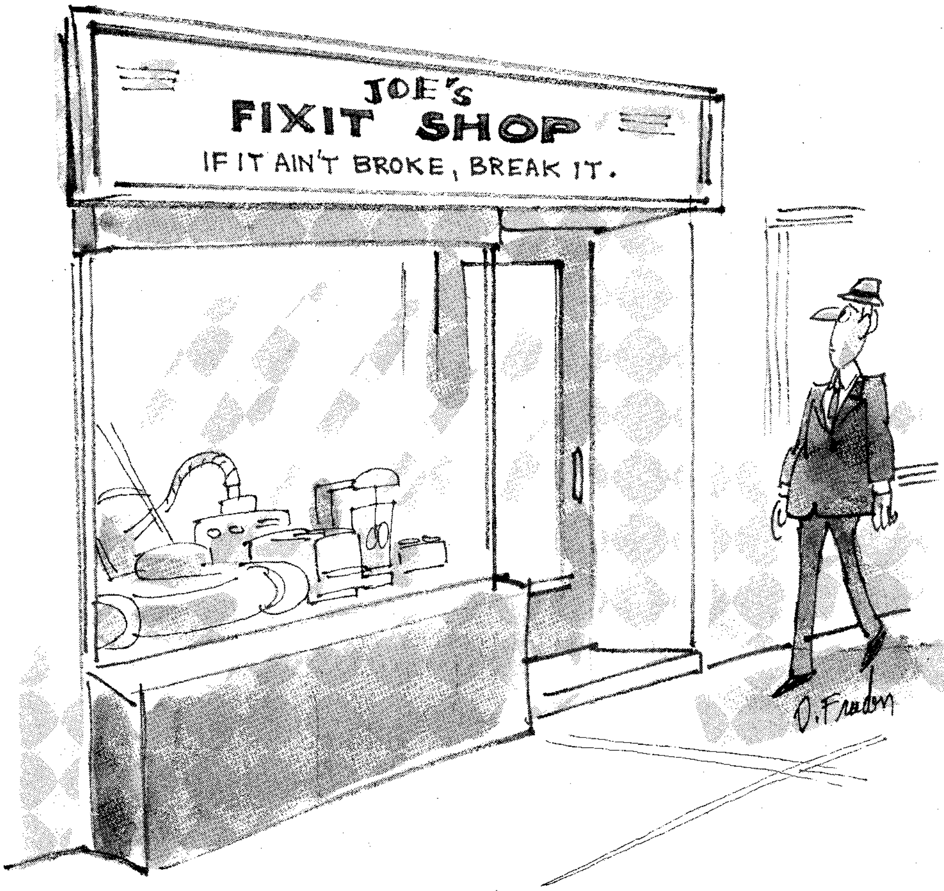
“Look. This star on the quilt is the new house, see? Then you go around the corner, take the first left, go straight one, two, three blocks, then you turn right, like this”—he walks it with his fingers—“and bingo, there’s our house. Does that seem too hard to remember?”

“No.”

“Don’t worry, you’ll get it. You’re a quick study, *chico*.”

“I am?”

“Sure. It’s a pleasure to tell you things, because you get them so fast.”



“What happens if you’re wrong?”

“If I’m wrong about what?” he says.

“What if I never really learned the things you were telling me? What if I forgot them all?”

“All? You wouldn’t forget them all. Some knowledge you’re born with. You have your mother’s sense of direction.” A rule long abided by: praise her mother to her as often as possible, in particular when praise is due. He points to the quilt. “This is the new house. You’re here. Now you walk it.”

She walks her fingers around the first corner, follows the pink for three blocks with a precision that almost kills him, and is getting warm when he catches her hand and swallows it to the knuckles, making devouring noises. “I forgot,” he says around her fingers, “to warn you about the black hole in between. Mmmmmmm, nnnnnh, how good you are, delicious child, all gone.”

To his astonishment, the gray eyes brim. He lets go of her hand. “What? Did that hurt?”

“No.”

“I didn’t think it was hard enough to hurt. Was it?”

“No.”

“Are you worried about what the note said, then? Because I’m not.”

“I know it.”

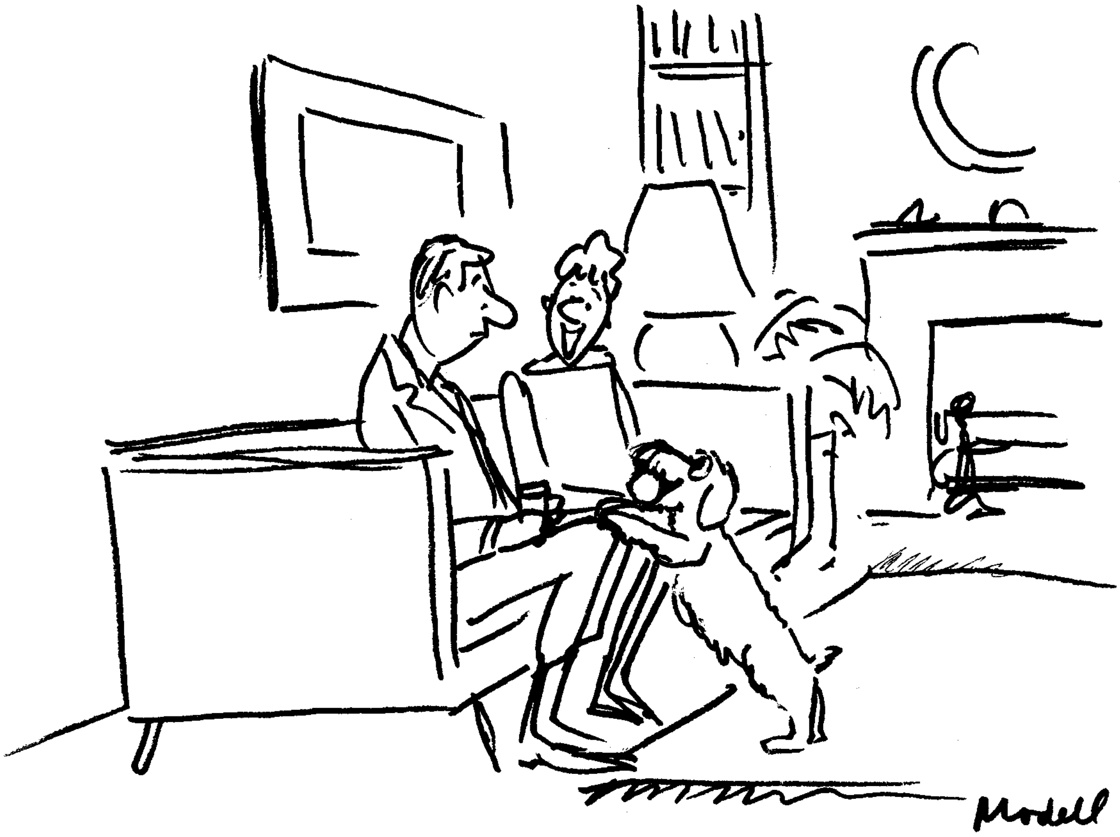
“Then, Fanny?” She turns on her side, facing the wall, and he puts his cheek to her warm, small back. “Fanny?” Still no answer. “Fanny?”

At last she says, warily, “What?”

“Can’t you tell me what’s wrong?” He feels all his patience, professional and domestic, trained and intuitive, impartial and yearning, brought to the finest point of attention, his nose buried in the cotton flannel of her nightgown, his eyes closed, his heart hanging on her next word, which is:

“Nothing.”

ON Friday, after following Fanny through the new house, Will pretends he is blind and pats down the wall by the front door for the switch, missing it. A realtor, leading the way through one of the houses they considered, told him it takes nearly a month before you acquire that seemingly instinctive way of being able, in the dark, to put your hand directly on the light switch. The realtor seems to have been right. “Have you given any



"You see, Byron thinks you can be fun."

thought to where you'd like the telephone, Fan? The telephone guys are coming tomorrow, right in the middle of everything."

"Will you call?"

"Will I call?" Bemused, he locks the door behind them. She jumps to the railing, draws her knee to her chest, and begins to rock strenuously. A neighbor's cat is in the corner of the porch.

"Fanny, I've told you about that. Stop."

"Will you call?" The neighbor's cat comes close; with her bare foot, toes extended, Fanny strokes the cat's head.

"From the clinic? I always call. You know that."

"You always used to."

"I don't get it, *chico*. Why's it going to be different?"

"What about," she says with an effort, "when I'm here, and they're there, then will you call me?"

"Who's they?"

"Carrie Ann," she says, "and the baby."

"So where are you, and where are they?"

"They're in your house," she says. "And I'm moved in here, tomorrow."

"Oh, *chico*," he says. "Is that what you think?"

She lets a foot rest lightly on the cat's head; delicately, with constraint, the cat licks its chest. "I know you have to have a house for just you and Carrie Ann and Christopher. I know you do. I like this house all right."

"Oh, Fan, no! Listen to me. It isn't that way at all. That was only a joke, the way I kept saying that this house was yours. This house is for *all* of us to live in—we're moving out of the old house together, into this one. We're a family. We're a little bigger family than before because of Christopher, but we would never want to live apart from you. Never. We couldn't stand it."

The cat hooks a paw as if to scratch at Fanny's ankle, and only swats—swift, small, apprehensive swats, claws in.

"I'm not sure about that cat, Fan."

"The cat won't hurt me." In proof, the cat begins to purr, and turns its cheek to Fanny's callused heel, buffing its head back and forth.

"Fanny?" he says. "It must have been so lonely for you."

"Forget it. Just forget it, Dad."

Carrie Ann puts the tip of her nose into Christopher's ear. She closes her eyes and inhales. Very dexterously, in his sleep, his fist opens and closes, closes and opens, thumb over fingers, fingers over thumb, in a way that is both delightful and monotonous to watch closely, the fist surrounding, and never quite releasing, some strands of Carrie Ann's hair. She lifts her mouth to Will for his kiss. When she turns her head, the strands caught in the baby's fist draw tight.

"How could she think up something like that?" she says. "It would never even have occurred to me that we needed to be on guard against Fanny getting an idea like that. How could you have possibly known she'd come up with something so farfetched?"

"It wasn't farfetched," he says. "It was reasonable, in its way. She was only listening to what I said."

She pats the quilt, signalling *Lie down;* he nods toward the hallway, meaning *I have to go talk to her some more*. Carrie Ann persists in patting the quilt: *I want to comfort you. Don't you need it, too?* So he does lie down, his body anchoring her body in place, and her foot, below the quilt, slides slowly down the length of his calf above it. She whispers, so she won't wake the baby, "God, Will, you want to know something? I think it's just about the saddest thing that's ever happened in the world, don't you?"

Will puts his head on her shoulder. The baby between them, they lie staring at the wide shadowed ceiling. She giggles, and suddenly they are both shaking with soft laughter, quite silent, something neither son nor daughter will ever hear.

—Elizabeth Tallent

* * *

"Only about every second guest I see speak Hungarian," said Fluck, who is fluent in English and German.—*Los Angeles Times.*

Especially German.

ANNALS OF LAW

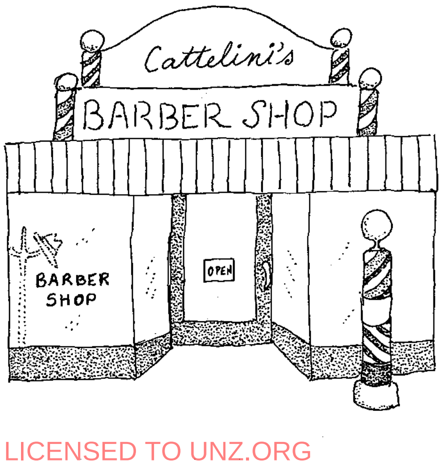
THE ASBESTOS INDUSTRY ON TRIAL

IV—BANKRUPTCY

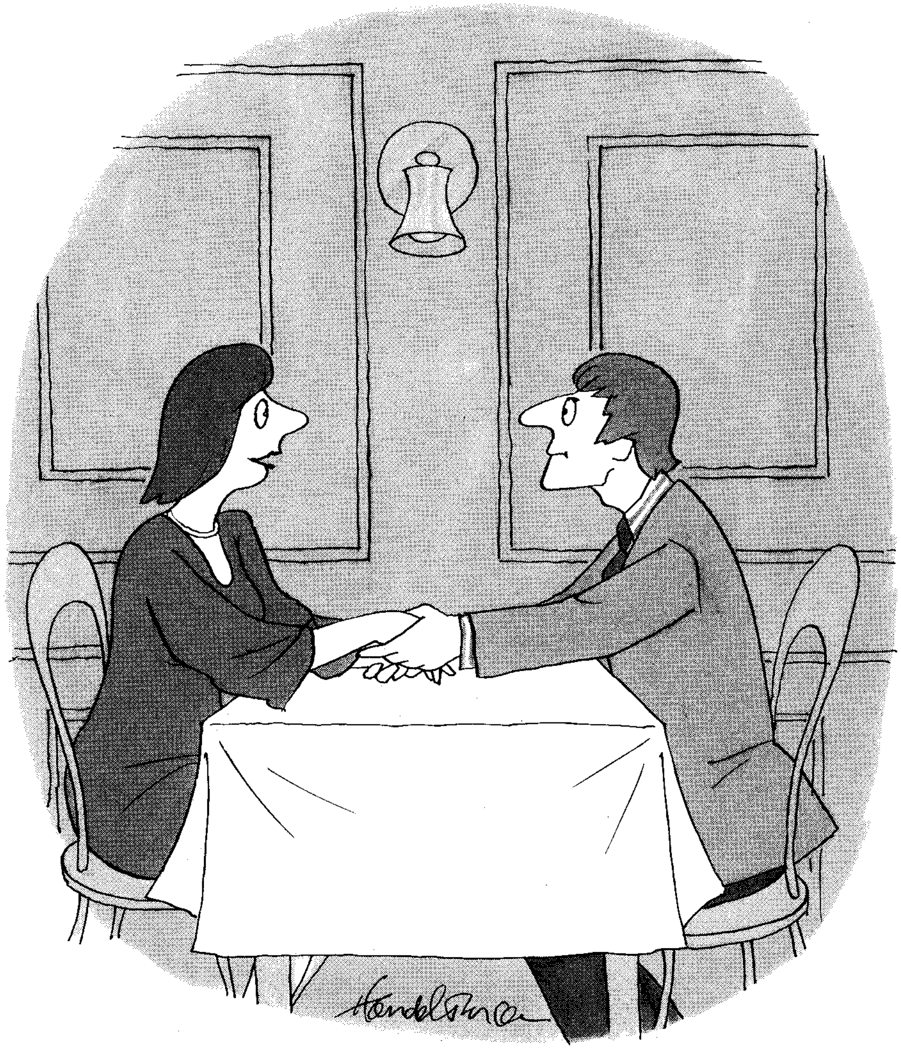
WHEN the Manville Corporation (formerly the Johns-Manville Corporation) filed for reorganization under Chapter 11 of the federal Bankruptcy Code, on August 26, 1982, the move stunned hundreds of plaintiff lawyers, who were closing in on the company from practically every corner of the country, and dismayed thousands of asbestos-disease victims who had brought claims against it. The move also surprised hundreds of defense attorneys, who had been earning tremendous fees by defending Manville from its accusers, and astonished the financial community which had not expected a company with two billion dollars in assets to employ such a stratagem. Manville had been fighting with its back to the wall for several years, however, and since the spring of 1981, when its primary insurer, Travelers, announced that it would no longer defend or indemnify the company, and its excess insurers, with one exception, refused to extend its coverage, it had been paying out as much as two million dollars a month in defense costs alone. During that period, moreover, juries around the nation had been granting huge punitive-damage awards—awards of a type for which Manville carried little or no insurance—and the company's troubles had been compounded by a continuing inability to pin the blame on the federal government for asbestos disease that had developed in several thousand shipyard workers who had filed suit against Manville and other asbestos manufacturers.

The first major attempt to involve the government in the shipyard cases occurred in the spring of 1979, in the United States District Court in Hartford, Connecticut, where about a hundred and fifty present and former employees and relatives and survivors of employees of the General Dynamics Corporation's Electric Boat Division—a maker of nuclear submarines at the company's shipyard in Groton, Connecticut, since 1954—had brought lawsuits against Johns-Manville and eleven other asbestos-insulation manufacturers and distributors, as well as against the United States Navy, alleging that they had developed asbestos disease as a result of exposure to the insulation and that they had not been warned that such exposure was hazardous to their health. Some of the manufacturers, in turn, claimed that the government should bear some of the responsibility for the plaintiffs' injuries because it had sold them raw asbestos from government stockpiles, and had specified the use of asbestos insulation in submarine construction. Some of the manufacturers also claimed that the plaintiffs' injuries had been caused by the failure of the Navy and General Dynamics to institute proper precautionary measures for the handling and application of asbestos insulation. (At the time, General Dynamics—a St. Louis-based corporation that is one of the largest military contractors in the nation and has recently come under heavy criticism for cost overruns and improper billings in its contracts with the Defense Department—owned a controlling interest in the Asbestos Corporation, of Thetford Mines, Quebec, which was the largest independent producer of asbestos fibre in Canada; General Dynamics has since transferred control of the Asbestos Corporation to the government of the Province of Quebec.)

The earliest Groton shipyard cases had been filed in 1975, by Stanley J. Levy, of New York City, and Matthew Shafner, an attorney from Groton, who had been helping some of the disabled submarine workers obtain workmen's-compensation benefits. During the summer of that year, Dr. Irving J. Selikoff, Dr. Ruth Lilis, and a team of physicians and researchers from the Mount Sinai School of Medicine's Environmental Sciences Laboratory had begun to examine two hundred and one active and retired submarine-construction workers at the invitation of the Metal Trades Council, which represented almost all the trades in the yard. (These workers included, among others, electricians, pipe fitters, machinists, welders, riggers, carpenters, and laborers as well as insulators, and when the study was completed, in 1976, Dr. Selikoff and his associates had examined more than a thousand of them and found that approximately half had developed X-ray evidence of asbestos scarring of the lung or the pleura or both. This was an alarming discovery, considering that over the years more than a hundred thousand workers were believed to have been exposed to asbestos at the Groton shipyard alone.) As for Electric Boat, which had been making submarines at Groton since 1924, it not only had failed to inform its employees that their chest X-rays showed they were developing asbestosis but also was contesting their efforts to obtain compensation for the disease under the federal Longshoremen's and Harbor Workers' Compensation Act. Some idea of the Navy's attitude toward the problem can be seen from the comments of Captain George M. Lawton, deputy director of the Division of Occupational Health and Preventive Medicine of the Navy's Bureau of Medicine and Surgery, in Washington, D.C. In an interview that was published in *Connecticut* magazine in 1976, Lawton answered the question of whether the Navy bore any responsibility for working conditions at the Electric Boat shipyard by observing, "If I order an automobile and the way they make automobiles is to throw people into a furnace, I am not responsible for that."



The government's official position on the matter was, naturally, couched in more circumspect language. The Navy's legal defense in the Groton lawsuits was being directed by Peter A. Nowinski, an attorney with the Department of Justice, which was trying to live down the fact that in 1977 the government had been forced to contribute five million seven hundred thousand dollars to the settlement of a lawsuit involving more than four hundred workers at a Pittsburgh Corning asbestos-insulation plant in Tyler, Texas. Justice Department officials



"Wow, David, I've been proposed to before, but you're the first person who ever offered me blood, toil, tears, and sweat."

• •

argued in a pre-trial motion that the Groton shipyard workers were barred from seeking damages against the government, because they were already being compensated or were eligible for compensation under the federal Longshoremen's and Harbor Workers' Compensation Act. On June 20, 1979, Federal Judge M. Joseph Blumenfeld, who was presiding over the Groton cases, ruled that the question of whether third parties such as the government and General Dynamics were negligent could not be used by Johns-Manville and its co-defendants to relieve themselves of their own liability. As a result of these rulings, the government did not participate in a six-million-seven-hundred-and-twenty-thousand-dollar settlement of the first fifty Groton shipyard cases, which was negotiated by Levy and Shafner in 1980, and it was not a defendant in any of the cases that went to trial at the beginning of 1982.

The Groton settlement involved one of the most imaginative and risky negotiations in the history of asbestos litigation. From the outset, Levy and Shafner took the position that the twelve defendants in the fifty cases should settle at the same time, and that the plaintiffs would refuse to negotiate any piecemeal or partial settlements. This forced the defendants to negotiate in a group. Late in the discussions, however, when the defendants had offered to settle the cases for six million dollars, Raybestos-Manhattan balked at paying its assessed share, seven hundred and twenty thousand dollars, and withdrew from the group. At that point, Levy told the court that if Raybestos-Manhattan refused to chip in its share he would accept five million dollars as a settlement from the remaining eleven defendants, and proceed to try all fifty cases against Raybestos-Manhattan alone. Levy went on to say that he would propose that if the verdicts in the trial against Raybestos-Manhattan did not make up the one-million-dollar difference, the settling defendants would agree to make a second payment for one million dollars. In return, he would agree that if the verdicts did reach six million dollars the settling defendants would not have to make a second payment. Instead, the plaintiffs would collect every penny of the one-million-dollar difference, plus the seven hundred and twenty thousand dollars that Raybestos-Manhattan had balked at paying, from Raybestos-Manhattan. Not surprisingly, when confronted with this proposal, Raybestos-Manhattan agreed to ante up the seven hundred and twenty thousand.

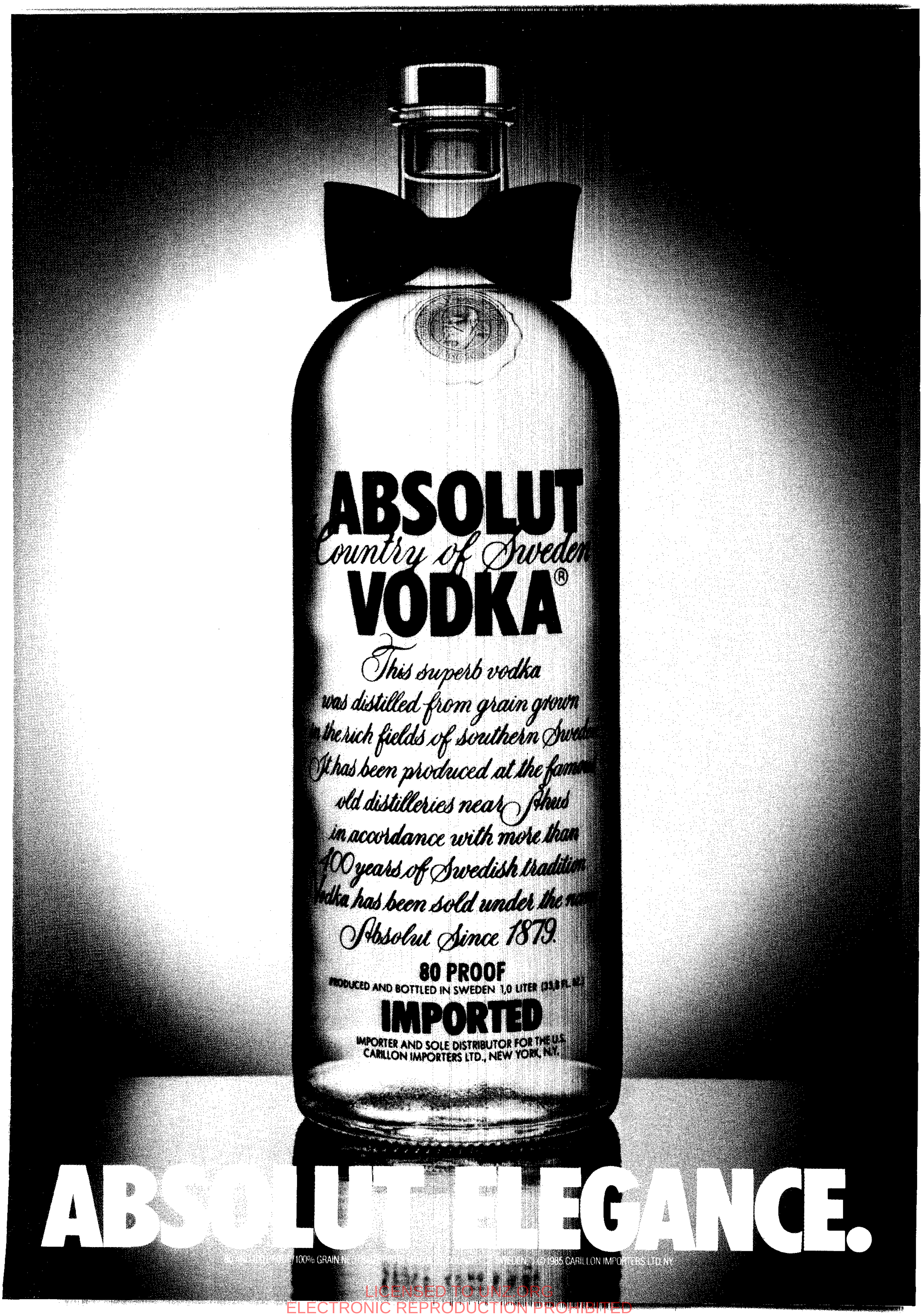
During 1979, Johns-Manville and ten other asbestos-insulation manufacturers made their next effort to shift responsibility for asbestos disease to the government, this time by bringing a third-party lawsuit against the United States in federal court in Virginia. In their suit, the manufacturers sought to be totally indemnified by the government for a sixty-nine-thousand-dollar settlement they had negotiated with a fifty-nine-year-old former pipe coverer named William B. Glover, who had developed asbestosis in 1975, after working for thirty-five years at the Norfolk Naval Shipyard, and had sued them for negligence, breach of implied warranty, strict liability, and fraudulent misrepresentation and concealment of information about the health hazards of their products. Before settling the case, Johns-Manville and its co-defendants sued the government, claiming that it was liable to them on the basis of noncontractual indemnity, because, as the employer at the shipyard, it had failed to maintain a safe workplace and had thus been guilty of the primary negligence that had caused Glover's disease.

On the face of it, the whole business was bizarre, for it put Johns-Manville and its fellow-manufacturers who would ultimately settle with Glover in the position of having to affirm a case against themselves in order to prove their case against the government—in other words, of having to admit that they were potentially liable to Glover, for their failure to warn him of the hazards of their asbestos products, before trying to prove that their liability was superseded by the government's failure to advise Glover on how to handle those products properly and to provide him with a safe place of work. Convoluted as this may seem, Glover v. Johns-Manville v. United States of America was litigated with deadly seriousness, for the simple reason that it bade fair to determine who was going to foot a several-billion-dollar bill for the two thousand shipyard cases that had already been filed and for the thousands of similar claims that it was expected would be brought in the future. Indeed, the trial was tantamount to a high-stakes poker game for the asbestos manufacturers and their insurance carriers, as well as for the government.

During week-long proceedings that began on October 10, 1979, attorneys for Johns-Manville argued that Navy safety inspectors had found that the Norfolk shipyard had some of the worst asbestos-dust conditions of any naval shipyard in the nation, while the government argued that Johns-Manville and the other manufacturers had known for decades that their asbestos products were hazardous to work with, and had done little or nothing to remedy the problem. After two months of deliberation, United States District Judge John MacKenzie ruled that the manufacturers could not claim indemnity against the government, saying that although the United States had "failed to satisfy the duty of care it owed Glover," its liability was limited to payments under the federal Employees' Compensation Act. Johns-Manville appealed Judge MacKenzie's ruling in Glover to the Fourth Circuit Court of Appeals, but in the autumn of 1981 the appellate court upheld MacKenzie, agreeing that the manufacturer was more negligent for Glover's asbestosis than the government was.

During 1983 and 1984, Manville filed three lawsuits in the United States Claims Court, in Washington, D.C., charging the government with contractual liability for the asbestos exposure of workers employed in government shipyards, and these cases are still in litigation. Back in 1981, however, Johns-Manville's inability to bring the government into the asbestos litigation as a full-fledged defendant was a blow that isolated the company, driving it into a blind alley, where, deserted by its insurers, harassed by litigators armed with new disclosures about its role in the coverup of asbestos disease, pilloried by juries bent on punishing it for its past deeds, and criticized by the press, it continued not only to fight with tenacity against all comers but also, throughout, to maintain an unruffled public demeanor. In May of that year, in an interview that was published in an investors' report, two of the company's top legal strategists—G. Earl Parker, its senior vice-president for law and public affairs, and Dennis Markusson, the assistant corporate counsel—discussed developments in the asbestos litigation in a manner that was both matter-of-fact and bold-faced. Parker blamed publicity and a litigious society for the sharp increase in asbestos lawsuits during 1980. He said that juries were unable to make consistent judgments on similar facts and could not serve as a means of delivering uniform compensation. Concerning punitive damages, which had just been awarded against Johns-Manville for the first time, Markusson said that the company intended to raise the issue of whether it was constitutional to assess them more than once for the same thing. "If the notion is to punish, then at some point it goes beyond punishing and becomes an abuse of due process or at least nonsensical," he declared. Parker hastened to add, "We believe no one is at fault in the evolution of asbestos-related disease." He concluded the interview by praising the proposed asbestos-health-hazards-compensation bill—a measure that was widely known as a Johns-Manville bailout bill—which had been introduced during the previous session of Congress by Senator Gary Hart, of Colorado.

The bravura performance put on by Parker and Markusson mirrored an aggressive position that had been approved around the beginning of the year by John A. McKinney, Johns-Manville's chairman and chief executive officer. In the future, the company would go to trial whenever practical rather than settle asbestos-disease lawsuits out of court. By then, Johns-Manville had been named as a defendant in more than five thousand lawsuits, and more than two hundred new cases were being filed against the company each month—a fifty-per-cent increase over the number filed in 1980. As a result, on January 31, 1981, Richard B. Von Wald, Johns-Manville's corporate counsel, was forced to write a letter informing Coopers & Lybrand, the accounting firm that performed Johns-Manville's annual audit, that "the eventual outcome of this litigation cannot be predicted at this time and the ultimate liabili-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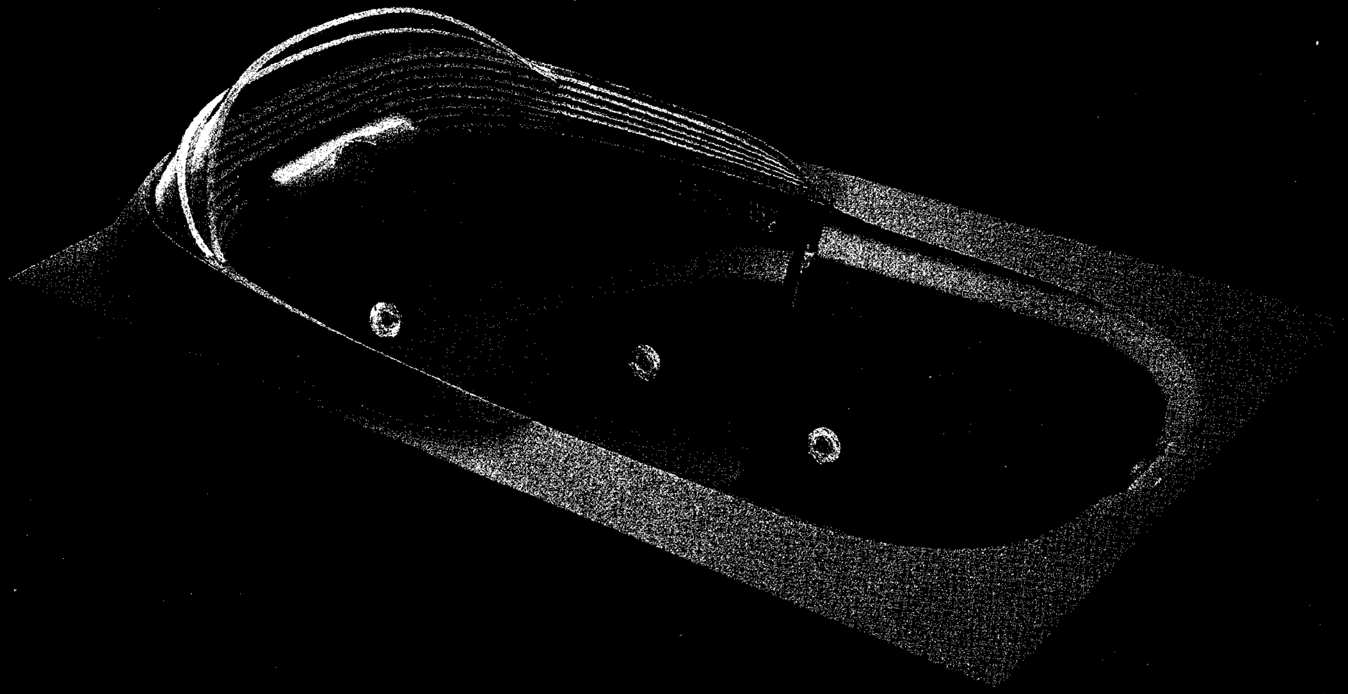
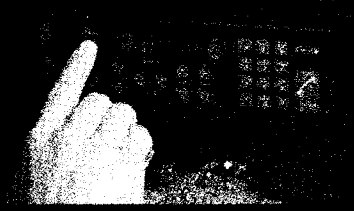


A bath for baby.



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ty to the Company after application of available insurance cannot be estimated with any degree of reliability."

Four days later, Coopers & Lybrand responded by qualifying its report on Johns-Manville's consolidated financial position in 1979 and 1980—an embarrassing development that McKinney was forced to acknowledge in the company's 1980 annual report, which was sent out to the stockholders in March of 1981. "In spite of the uncertainties created by this growth in litigation, we continue to be optimistic about our ability to deal with this problem," he informed the stockholders. "Since this litigation began, we have won 19 of the 28 cases that have proceeded through trial." He went on to say, "You can be assured that we will continue to be aggressive in asserting our defenses."

As it happened, the nineteen victories in twenty-eight trials had come mostly in cases in which the medical diagnosis of asbestos disease was in serious doubt. Moreover, it was at that time that Travelers was about to inform Johns-Manville that its primary insurance coverage was running out, and that it would no longer undertake to indemnify or defend the company in future asbestos litigation. How, then, was a new policy of going to trial in asbestos lawsuits going to save the company money, since legal fees and the likelihood of adverse jury verdicts made court trials far more costly than settlements and were bound to create a sharp rise in the over-all cost of litigation? A possible answer to this question has been suggested by the plaintiff attorneys: by going to trial in cases that it might have previously settled, Johns-Manville could clog court calendars, and by delaying trial dates, prolonging discovery proceedings, and appealing adverse verdicts it could drastically slow down the payment of compensation to the victims of asbestos disease. In the most optimistic scenario, the resulting strangulation of the court system could persuade Congress to enact legislation that would bail the company out of its legal and financial difficulties. And, at the very least, it would buy time while Johns-Manville devised new strategies for corporate survival.

Joe Mirachi

"And just which of your remarks did I take out of context?"

• •

The first of these strategies emerged in the spring of 1981, when the company's managers worked up a corporate-restructuring plan that provided for the formation of a new parent corporation, called the Manville Corporation. The new corporation would do no other business than own the stock of five subsidiary companies, which would operate fifty-four wholly owned second-level subsidiary companies. The five operating subsidiary companies would be the Johns-Manville Corporation, which would manufacture and sell asbestos and asbestos-containing products, such as roofing and pipe; the Manville Forest Products Corporation, which would make paper and wood products; the Manville Products Corporation, which would conduct domestic mineral and industrial-specialty operations; the Manville International Corporation, which would manufacture and sell building and industrial materials through foreign subsidiaries; and the Manville Building Materials Corporation, which would manufacture and sell home-building materials for the domestic market. The key components of the new restructuring scheme were the Johns-Manville Corporation, into which all of Johns-Manville's asbestos-mining and asbestos-manufacturing operations would be folded, and the Manville Forest Products Corporation, successor to Olinkraft, Incorporated—a company with five hundred and eighty thousand acres of timberland in Louisiana, Texas, and Arkansas, which Johns-Manville had bought for six hundred million dollars (about half its total assets) in 1978.

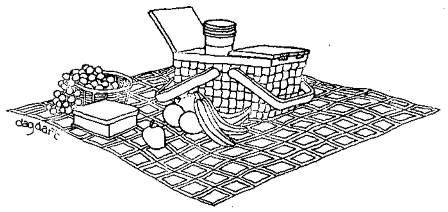
Given the legal situation that had developed, one scarcely needed to be a legal or financial wizard to see what lay behind the corporate face-lift. When McKinney described the proposed restructuring to Johns-Manville's board of directors, on July 30, 1981, he said that the purpose of the restructuring was "to remove from Johns-Manville Corporation the non-asbestos-related assets and the people associated with those assets, and thereby insulate them from the negative impact of the asbestos litigation." He also emphasized the need for secrecy in going about this task. "Neither internally nor externally do we intend to say anything more about the reasons for the corporate restructuring and operational reorganization than is stated in the news release and bulletin, or implied by the charts, or will be stated in the letter to shareholders to accompany the proxy statement," he declared. "If asked about any effect on liabilities, we'll say the questioner has to reach his own conclusions about that. We do not wish to precipitate a definitive legal challenge to the new structure."

In the news release that was handed out on the same day, and published in the business sections of newspapers around the country, McKinney explained that the consolidation of all asbestos operations in the Johns-Manville Corporation "will make possible a coördinated policy for successful continuation of the asbestos business." In the letter that was sent with the proxy statement to fifty-two thousand shareholders on September 11th, McKinney wrote that "unfavorable publicity and litigation involving the asbestos-related aspects of JM's businesses" necessitated the corporate restructuring. On October 29th, the shareholders approved it by an overwhelming margin, and that same day a public announcement was made that it had been accomplished.

IN addition to restructuring the company in order to protect its assets from its tort liabilities, Johns-Manville's managers appear to have also begun to toy with the idea of playing the bankruptcy card—a hazardous move, since no one could know whether it would turn out to be an ace in the hole or the joker in the deck. (On the one hand, filing for reorganization under Chapter 11 would result in an automatic stay of all civil litigation and proceedings against the company; on the other hand, it could result in liquidation.) Back in May, company officials had begun to interview outside consultants in order to commission a study that would estimate the future incidence of asbestos disease in the national population and the number of potential claims and lawsuits that might be filed against Johns-Manville. This step was highly significant with regard to a future bankruptcy filing, because in the quarterly and annual financial statements (Forms 10-Q and 10-K) that Johns-Manville and other corporations were required to send to the Securities and Exchange Commission the company was required under Financial Accounting Standards Board Rule 5 (FASB-5) to acknowledge probable losses, such as might result from lawsuits that were pending against it. Under Financial Accounting Standards Board requirements, this liability accrual was mandated only when the losses could be reasonably estimated. If no reasonable estimate could be made, and an appropriate declaration that it could not was noted in the financial statements that are included in Form 10-K, no accrual was required. By the same token, if the contingent losses could be estimated and the resulting liability was large enough, it could be used to justify a bankruptcy reorganization.

The question of loss contingency had become extremely important at the beginning of 1981, when Von Wald wrote to Coopers & Lybrand informing the auditors that the eventual outcome of the asbestos litigation and its ultimate liability to the company could not be reliably estimated—a declaration that relieved the company of the burden of having to file an FASB-5 estimation. A few months later, however, after the first punitive damages were awarded, Johns-Manville's strategists appear to have changed their minds about whether they should acknowledge the need for a liability accrual. In any event, by commissioning a study of the future incidence of asbestos disease and the number of potential claims and lawsuits that might be filed, they were taking the first step toward an FASB-5 loss estimation, and also toward a Chapter 11 proceeding. During the first week of June, they met with Dr. Nancy Dreyer, a Ph.D. epidemiologist, who was the president of a consulting group called Epidemiology Resources, Inc., of Brookline, Massachusetts, and a few days later Epidemiology Resources was hired to undertake the study.

During the next eight weeks, relying almost exclusively upon data supplied by Johns-Manville, Dreyer and her associates estimated that there would be about two hundred and thirty thousand additional cases of asbestos disease by the end of the century—asbestosis as well as cancer—and that this would result in some forty-nine thousand new asbestos-disease lawsuits against the company. The epidemiological part of their equation was certainly open to question, for Dr. Selikoff and his associates at Mount Sinai's Environmental Sciences Laboratory, who were considered the world's leading experts on the subject of asbestos disease, were even then completing a study for the Department of Labor in which they estimated that by the year 2010 there would be two hundred and seventy thousand excess deaths from asbestos-related cancer alone. How, then, could Dreyer and her colleagues at Epidemiology Resources possibly conclude that only forty-nine thousand more people would end up filing asbestos-disease lawsuits against Johns-Manville? The question is answered in part by a caveat they inserted at the beginning of their report. "There are many potential sources of error in these predictions," they wrote. "The actual number of lawsuits might easily be as low as half or as much as twice the number our calculations suggest." In another section, they pointed out that "the zeal of attorneys" in influencing potential plaintiffs to file asbestos-disease lawsuits against Johns-Manville could lead to a fifty-per-cent margin of error in their estimate that only about twenty-one per cent of all the people who developed asbestos disease would sue.



Von Wald and his associates at Johns-Manville were said to be less than happy with the uncertainties expressed in this preliminary report, which was delivered in July of 1981. A report containing such caveats could not, of course, be used to support an FASB-5 estimation of liability accrual, and thus could not be used to justify a bankruptcy filing in the future. After mulling things over, the Johns-Manville strategists directed the Epidemiology Resources people to "refine the estimates" for a March, 1982, deadline, and to "try to lessen the uncertainty" in their study.

It was now September of 1981, and during the previous five months things had taken a bad turn for Johns-Manville in the nation's courtrooms, because juries had awarded punitive damages of more than a million and a half dollars against the company. But at this gloomy moment Johns-Manville's corporate spirits were lifted by Senator Gary Hart's reintroduction of his asbestos-health-hazards-compensation bill, which he had first proposed in 1980. To begin with, Hart told his fellow-senators that nearly two million Americans were suffering from occupational diseases, and that the most common of these diseases was caused by breathing asbestos dust. He went on to say that as many as eleven million American men and women had been exposed to asbestos since the beginning of the Second World War, and that more than a million and a half of them were expected to die of asbestos cancer and other asbestos dis-

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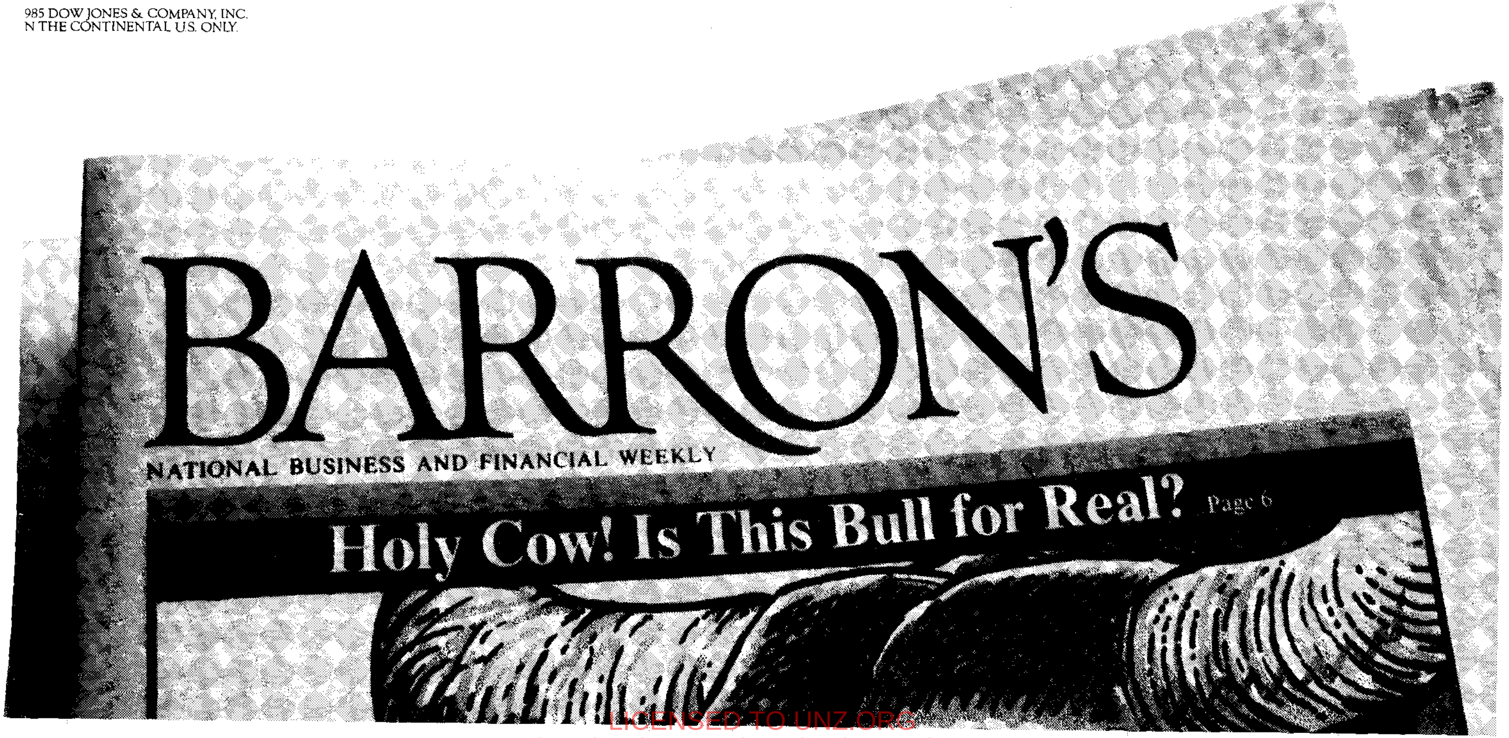
BARRON'S
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Holy Cow! Is This Bull for Real?
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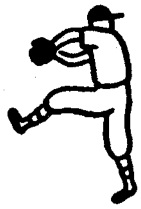
eases. He then declared that his bill was designed to provide relief for the victims of this terrible tragedy.

In reality, Hart's measure proposed to take away the right of diseased and disabled workers, and of the widows and families of workers who had died of asbestos disease, to sue the manufacturers of asbestos insulation and other asbestos products for negligence and failure to warn about the health hazards of asbestos. Thus, it would have eliminated the right of these workers to be compensated for the pain and suffering they had endured as a result of asbestos disease, and would have protected the manufacturers from being judged guilty of outrageous and reckless misconduct, which would justify the awarding of punitive damages. Hart's measure proposed that diseased asbestos workers and their families be compensated for disability and death only by no-fault state and federal workmen's-compensation programs, in which they were already entitled to participate, and that they receive a minimum ten-per-cent increase in those programs' meagre benefits. It also proposed that minimum standards of compensation be established for total disability or death due to an asbestos-related disease. The minimum, which would be tied to the number of dependents a worker had, would be not less than two-thirds or more than eighty per cent of a sick or dead worker's average weekly wage, and would be paid throughout his disability or his lifetime, or until the remarriage of his widow.



Under Hart's bill, a totally disabled asbestos-insulation worker with a wife and two children, or the widow and two children of an asbestos worker who had died of asbestos disease, would receive an average of fourteen thousand dollars a year. This would be paid from workmen's-compensation insurance carried by the last employer who exposed him to asbestos. In the case of shipyard workers, the last employer would probably be a private shipyard owner or the United States Navy. In the case of most other plaintiffs, it would probably be a relatively small company engaged in applying asbestos insulation to high-temperature pipes in power plants, chemical factories, and oil refineries.

Johns-Manville officials praised Hart's bill. They had good reason to do so. At the time, the company was a defendant in some seven thousand failure-to-warn lawsuits that had been filed by disabled asbestos workers or the widows and children of asbestos workers, and the bill, which had been written after consultation between Senator Hart's staff and Johns-Manville's Washington lobbyists, proposed to do away with such lawsuits. For this reason, it became known (as had an earlier measure, introduced in the House in 1977 by Representative Millicent Fenwick, of New Jersey) as the Johns-Manville bailout bill.

Some of Hart's aides claimed that his bill was backed by the International Association of Heat and Frost Insulators and Asbestos Workers, pointing out that Andrew Haas, president of the seventeen-thousand-member union, who had been trying for years to get Congress to enact legislation to help the victims of asbestos disease, had written Hart a letter of support for the bill in 1980. Other observers have noted that Haas may have been swayed by a provision in the bill that would have prevented disabled union members from suing the union for not having warned them more fully about the hazards of working with asbestos. In any event, Haas's support of Hart's measure was opposed by Roy Steinfurth, the administrator of the union's health-hazards program; by many of the union's business agents; and by many of its rank-and-file members, who continued to bring product-liability suits against Johns-Manville and other asbestos manufacturers at an unprecedented rate. Haas himself subsequently developed asbestosis, and retained Robert E. Sweeney, a prominent asbestos litigator from Cleveland, to file a product-liability lawsuit in his behalf—something that Hart's proposed measure would have prevented him from doing if it had been enacted into law.

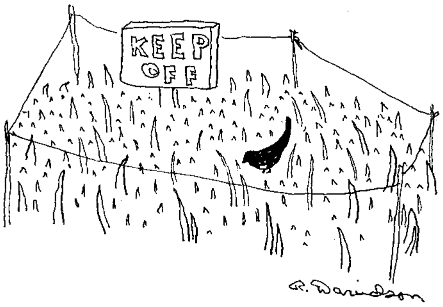
During the Presidential-primary campaign of 1984, on the few occasions when Hart was criticized for his asbestos bill he was quick to use Haas's support to suggest that the bill had had widespread union approval. The fact is, however, that high officials of the A.F.L.-C.I.O. had bitterly denounced the bill. Moreover, on December 10, 1980, Hart and Timothy E. Wirth, the Democrat representative from Colorado's Second Congressional District—home of Johns-Manville's world headquarters—who was thought to be planning to sponsor similar legislation in the House, had been sent a letter by the Oil, Chemical, and Atomic Workers International Union informing them that the measure would result in "institutionalizing cancer" and would remove any inducement for industry to use caution and prevention when dealing with asbestos. In addition, on November 11, 1980, Hart and Wirth had been sent an eleven-page letter by William A. Trine and J. Conard Metcalf, of the Boulder law firm of Williams, Trine, Greenstein & Griffith, which warned them to think twice before sponsoring bailout legislation for the asbestos industry, and informed them about specific details of Johns-Manville's fifty-year coverup of the asbestos hazard, such as the Sumner Simpson papers of the nineteen-thirties, in which officials of Johns-Manville and Raybestos-Manhattan decided to prevent public disclosure of knowledge about asbestos disease. At the end of their letter, Trine and Metcalf pointed out that while asbestos-disease litigation "may be distressing to Johns-Manville, the truly distressing situation is the man whose lungs are crushed by the wildly aberrant cells of pleural mesothelioma while his wife and children watch helplessly from his bedside." They then told Hart and Wirth bluntly that "bailout legislation is unwarranted and unnecessary," and that in any event no bill should be proposed to bar access to the courts by the victims of asbestos disease.

Hart not only ignored this advice but managed to misconstrue the situation. For example, when he reintroduced his bill in 1981 he tried to persuade his fellow-senators to support it by telling them that in about half the asbestos cases that had gone to trial the worker or the worker's family had received nothing. The facts were that Johns-Manville and its insurers had settled some two thousand asbestos lawsuits out of court for tens of millions of dollars, and that fewer than forty of the seven thousand lawsuits that were pending against the company had gone to trial. (Most of the twenty or so trials that had been won by Johns-Manville involved cases in which the diagnosis of disease was in doubt, or had occurred before disclosure about the coverup eroded the company's state-of-the-art defense.) Moreover, Hart did not inform his fellow-senators that in recent months juries had awarded punitive damages of more than one and a half million dollars against Johns-Manville for outrageous and reckless misconduct after hearing evidence that the company had engaged in the coverup, about which he had been fully informed by the Messrs. Trine and Metcalf.

Hart's fellow-senators nevertheless refused to support his proposed asbestos-compensation bills, and neither got out of committee. If either of them had been passed, it would have established a legislative precedent whereby countless other workers—men and women exposed to cancer-producing chemicals, for example—might in the future be similarly deprived of access to the courts. The question is, Why did Hart introduce those bills to begin with? Why did he seek to bail out a company that not only was largely responsible for a tragedy that he himself said would claim the lives of more than one and a half million of his fellow-citizens but also had been found guilty of outrageous and reckless misconduct by juries composed of his fellow-citizens?

The question has not yet been answered in full. What is known from Federal Election Commission records is that Hart accepted contributions from Johns-Manville's political-action committee, including four thousand eight hundred dollars for his 1980 campaign for reëlection to the Senate. The F.E.C. reports also show that for that campaign John McKinney, Manville's chairman, gave nine hundred and ninety-nine dollars and eleven cents (the maximum an individual can give is a thousand dollars per candidate in each of the primary and general-election campaigns), and that G. Earl Parker, the senior vice-president for law and public affairs, gave eight hundred and fifty dollars. These contributions were not extraordinary, of course, and could not explain the fact that Hart's proposed legislation was so favorable to Manville. What many observers of the Colorado political scene believe is that Hart, who first won election to the Senate in 1974, only after he had survived a three-way primary with less than forty per cent of the total vote, and was reëlected in 1980 by less than fifty-one per cent of the vote, felt a desperate need to shed the liberal image that had followed him from his days as Presidential-campaign manager for George McGovern in 1972, and to show business interests in Colorado—particularly the big oil companies, the cattle industry, and the banking community in Denver—that he was not anti-business. Whatever the case, the Johns-Manville bailout bill that he reintroduced in 1981 was presumably nothing that he felt would ever come back to haunt him, for he surely knew that it had little chance of ever being voted out of committee. It was an example of the kind of bill that is not supposed to do its author any real or lasting harm and has the advantage of showing important constituents (in this case, an important corporate constituent) that its author is doing his very best for them. At the time, Hart had no way of knowing that Johns-Manville—a company with two billion dollars in assets—was secretly preparing to file for reorganization under Chapter 11, or that within a year and a half McKinney would be required to testify under oath about Johns-Manville's efforts to gain passage of federal legislation that would bail it out of its legal difficulties. When this did come to pass, the stage was set for one of the least-known but most dramatic disclosures in the complex history of asbestos litigation.

DURING the late autumn of 1981, Manville continued to devise strategies for dealing with its growing legal problems. In December, Von Wald got together with nine other attorneys to form an organization called the Litigation Analysis Group, or LAG, whose mission was to investigate these problems and make recommendations with respect to them. Four of LAG's members—Von Wald, Earl Parker, Dennis Markusson, and Christina Bearman—came from inside the company. The six outside members were James W. B. Benkard and Stephen H. Case, of Davis Polk & Wardwell, a New York City law firm that had handled Johns-Manville's legal affairs since 1928 and one of whose partners would become a director of the company the next year; Paul Meyer and James Scarboro, of the Phoenix, Arizona, law firm of Martori, Meyer, Hendricks & Victor, which had been retained to analyze the legal aspects and consequences of Johns-Manville's recent corporate restructuring; Curtis Caton, of Heller, Ehrman, White & McAuliffe, a San Francisco law firm, which was representing Johns-Manville in major and protracted insurance litigation in California Superior Court; and Marc Victor (no relation of the Victor of the Phoenix law firm), who was the president of a company called Litigation Risk Analysis, of Menlo Park, California.



As things turned out, Marc Victor played a strange role in a complex chain of events that now began to lead toward the filing for bankruptcy, some eight months later. A thirty-year-old graduate of Dartmouth, Stanford University School of Law, and Stanford Graduate School of Business, he had worked for six years at the Stanford Research Institute, in Menlo Park, applying decision analysis to legal and other problems, before leaving to start Litigation Risk Analysis, a one-man company that helped map strategy for businesses faced with major lawsuits. In April of 1981, he had been retained by the Heller, Ehrman firm on behalf of Manville as a consulting attorney in the insurance litigation, and some six months later Von Wald hired him to join the Litigation Analysis Group, which held its first meeting on December 15th and met every month thereafter until Manville filed for bankruptcy.

During the winter of 1982, Victor was assigned to bring his expertise to bear upon the work of the people at Epidemiology Resources, who were busy refining their estimates of the number of cases of asbestos disease and the number of asbestos-disease lawsuits against Johns-Manville, in order to meet the March deadline they had been given for their final report. On March 15th and 16th, he and several Manville attorneys met at the company's headquarters, near Denver, with Dr. Alexander M. Walker, an associate epidemiologist at Epidemiology Resources, who was in charge of the final-estimation study, to discuss some epidemiological techniques that Walker had presented at a LAG meeting in Washington two weeks earlier.

During the two days in mid-March, Victor, a litigation strategist who was totally without training or experience in epidemiology, was successful in persuading Dr. Walker, a scientist with a doctorate from the Harvard School of Public Health, to reshape some of his assumptions concerning the future incidence of asbestos disease. After talking with Victor, for example, Walker revised his original estimate in such a way as to lower the projected number of people who might develop lung cancer as a result of exposure to asbestos. (Walker did this by discounting the risk multiplier for lung cancer that had been propounded by Dr. Selikoff, who had found that an asbestos-insulation worker who smokes has five times as much risk of dying of lung cancer as cigarette smokers who are not exposed to asbestos, and that an asbestos-insulation worker who doesn't smoke has five times as much risk of dying of lung cancer as nonsmokers in the general population. Thus, the combination of cigarette smoking and asbestos exposure increases an asbestos insulator's chances of dying of lung cancer more than fifty times over the risk incurred by someone who neither smokes nor works with asbestos.) At the same time, Walker allowed himself to be persuaded that Dr. Selikoff and his colleagues at Mount Sinai's Environmental Sciences Laboratory had vastly overdiagnosed cases of mesothelioma—the most deadly of the asbestos-related diseases. Some idea of what went on at the two-day meeting in Denver can be had from sworn testimony that was subsequently given by Walker in the bankruptcy proceedings.

"Were you requested at any time by Manville or its counsel to make assumptions in your estimates that would result in lower rather than higher resulting numbers?" Walker was asked by Richard Tufaro, an attorney for Manville's unsecured creditors.

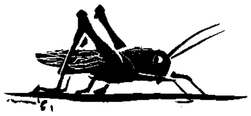
"I was asked sometime, I believe, during the meeting in Denver, that whenever I had to choose between two equally plausible assumptions, I should choose the assumption which led to a smaller number of cases of disease," Walker replied.

Later, Tufaro asked Walker who had given him that instruction.

"Marc Victor," Walker replied.

When Tufaro asked Walker if he had talked to Victor about why the instruction had been given, Walker said, "I tried to, but he said that he would prefer not to discuss it in any detail."

In an affidavit that was subsequently submitted to the bankruptcy court, lawyers representing the asbestos plaintiffs suggested that the most likely reason for Manville's attorneys to want Walker to keep his assessment of the future incidence of asbestos disease as low as possible was simply that the lower the estimate of disease, the lower the estimate of potential plaintiffs who might bring future lawsuits. As for their desire to downplay the number of future lawsuits, this was necessary, the affidavit suggested, in order to come up with an estimate of the company's total financial liability in the asbestos litigation that would be large enough to justify its filing for reorganization but not so large as to trigger a proceeding that might result in its liquidation. One trouble with all this was that Manville had been claiming for some time that it had spent only about twenty-five thousand dollars, including defense costs, to settle an average asbestos-disease case—a figure that seems very low, and was probably designed to reassure the company's stockholders. Whatever the truth of the matter, the twenty-five-thousand-dollar figure applied to all the lawsuits that had been tried or otherwise disposed of since 1976, and thus was a historical average that did not take into account the skyrocketing cost of disposing of asbestos cases; that cost rose to an average of more than forty thousand dollars during the first half of 1982, when jurors were awarding huge compensatory and punitive damages, which drove up the price of out-of-court settlement. Low or not, the twenty-five-thousand-dollar projected cost posed an excruciating dilemma for Manville's attorneys and advisers, who that spring were searching for ways to justify a bankruptcy reorganization under Chapter 11. The nature of this dilemma was subsequently described in the affidavit of the plaintiff attorneys. They pointed out that if there were two hundred thousand additional lawsuits—a by-no-means impossible number, since approximately twenty-one million living American men and women (about one in ten of the total population) had been exposed to asbestos in their work between 1940 and 1980, and were therefore estimated to be at some risk of developing asbestos-related disease—one merely had to multiply the two hundred thousand potential plaintiffs by Manville's own twenty-five-thousand-dollar average-disposition cost to arrive at a total projected-liability cost of five billion dollars. If such a figure were to be appended to an FASB-5 estimate for liability accrual, it would probably trigger a bankruptcy proceeding under Chapter 7 of the federal code, in which liquidation of Manville would have been the only possible solution. This, of course, was not at all what Manville's attorneys, advisers, and managers had in mind. And so, hung up on their own twenty-five-thousand-dollar historical-disposition cost, they had no choice but to tinker with the estimates of the future incidence of asbestos disease and of projected lawsuits if they were to arrive at an FASB-5 estimation for a liability accrual that would insure Manville's survival.

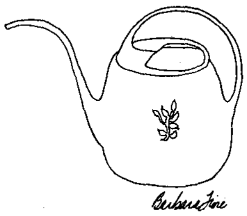


To give credit to the people at Epidemiology Resources, they had stated in July of 1981 that there could be a fifty-per-cent margin of error in their estimate of forty-seven thousand additional lawsuits, because of the many uncertainties that were involved in making it. And, to give Dr. Walker credit, though he appears to have been rather easily influenced by Victor in estimating the number of future cases of asbestos disease, he was adamant in expressing his opinion in March of 1982 that the propensity of potential asbestos plaintiffs to sue Manville could not be accurately predicted by any methodology over the long run. As attorneys for the asbestos plaintiffs later pointed out, if Manville officials had really wanted to avoid filing for bankruptcy, as they claimed, they would have been delighted with Dr. Walker's opinion, and would have terminated the FASB-5 estimation process forthwith. Instead, as soon as Walker expressed his opinion that propensity to sue was not something that could be predicted Von Wald's people informed him that he was no longer to concern himself in any way with the projection of lawsuits. This meant that Walker's views on propensity to sue would be excluded from the analysis, and limited him to estimating the future incidence of asbestos disease, which in August of 1982 he did to the satisfaction of the Manville people by predicting in his final report that between 1980 and 2009 there would be nineteen thousand cases of mesothelioma and fifty-five thousand cases of asbestos-related lung cancer; and that there were at present sixty-five thousand cases of clinically diagnosable asbestosis in the United States. His total of a hundred and thirty-nine thousand cases of asbestos disease between 1980 and 2009 was considerably lower than that of his colleague, Dr. Dreyer, who had estimated that there would be two hundred and thirty thousand cases of asbestos disease by the end of the century, or of Dr. Selikoff and his associates at Mount Sinai, who had been studying asbestos disease for more than two decades and had estimated that between 1980 and 2009 as many as two hundred and seventy thousand people would die of asbestos-related cancer alone.

ONCE Walker had been removed from the propensity-to-sue project, Von Wald and his staff hired two additional sets of experts to perform the analysis. One of these groups discovered that not more than twenty-five per cent of the people who had developed asbestos disease were filing lawsuits—an extremely low rate compared with other population groups that were filing claims. As the Litigation Analysis Group summarized the experts' view, this was caused by "a low propensity to attribute one's illness to some asbestos exposure dating back many years." This assessment of the general reluctance to understand the phenomenon of latent disease went a long way toward explaining why asbestos workers and the general public had been so slow to recognize the seriousness of the asbestos hazard.

When neither of the two groups of experts was able to come up with a propensity-to-sue formula that could be used to calculate the number of future lawsuits, Von Wald and some of his associates in LAG proceeded to calculate a propensity-to-sue fraction of their own. Applying it to the hundred and thirty-nine thousand cases of future asbestos disease that had been predicted by Dr. Walker and his associates at Epidemiology Resources, they came up with the prediction that fifty-two thousand additional lawsuits would be brought against Manville. This proved to be a case of applying assertion to error, since Walker's assessment of the future incidence of asbestos disease was marred by mistakes of methodology. In a critique that was issued by the Mount Sinai School of Medicine's Environmental Sciences Laboratory in January of 1983, Dr. William J. Nicholson, associate director of the laboratory, pointed out that Walker's estimates were irrelevant because they were based upon data that not only were "statistically unreliable" but did not take into account major exposure to asbestos during a twenty-four-year period on the part of workers in the expanding construction and maintenance industries, especially as a result of asbestos-spraying operations that took place between 1958 and 1972 and exposed virtually the entire construction work force to considerable amounts of asbestos.

When LAG's lawyers applied their arbitrary propensity-to-sue fraction to Walker's flawed estimate—an estimate that Dr. Nicholson says was about a fifth of what it should have been—they were not simply compounding a series of errors but also, by implying that their prediction of fifty-two thousand lawsuits was based upon Walker's assumptions, and by failing to acknowledge that Walker had repeatedly expressed the belief that propensity to sue could not be accurately predicted, misleading the readers of a report they sent at the end of July to the members of Manville's board of directors.



In the meantime, the LAG people needed to come up with a third calculation for the FASB-5—an estimate of the disposition costs of future asbestos-disease lawsuits. Von Wald accomplished this by using the forty-thousand-six-hundred-dollar disposition cost for the quarter immediately preceding Manville's filing for reorganization under Chapter 11. This figure was, of course, far higher than Manville's often proclaimed historical-average-disposition cost of twenty-five thousand dollars per case. Be that as it may, when Von Wald and the members of LAG wrote their version of what the various experts had concluded they managed to imply that the forty-thousand-six-hundred-dollar future-disposition cost was based on scientific research done by the experts Manville had retained, when in fact these experts had never been asked to calculate an average cost for settling future asbestos-disease claims. The total figure that LAG came up with as its disposition-cost projection was one billion nine hundred million dollars.

ON August 4, 1982, Von Wald reviewed LAG's version of the various experts' reports for the twelve members of Manville's board of directors, meeting at the company's headquarters. In a press release that was issued on the same day, a Manville spokesman announced that the company had reported to its board of directors that it had received studies from outside consultants indicating that asbestos litigation might continue unabated for a number of years, and that the directors had decided not to declare a dividend on the corporation's common stock. He also said that the board had appointed a special committee "to appraise the potential future impact on the company of pending and anticipated asbestos-health cases, [and] the possible need for creation of substantial reserves."

The special committee, whose members were chosen by McKinney, was made up of four of the company's ten outside directors. They were John P. Schroeder, a retired vice-chairman of the Morgan Guaranty Trust Company, of New York, who was named the committee chairman; William F. May, the Dean of New York University's Graduate School of Business Administration, and a former chairman and chief executive officer of the American Can Company, of Greenwich, Connecticut; William D. Tucker, a partner in Davis Polk & Wardwell; and Charles J. Zwick, the president and chief operating officer of the Southeast Banking Corporation, of Miami, and a trustee of the Rand Corporation, of Santa Monica, California. Three of these men—Schroeder, May, and Zwick—made up an inner sanctum of power within the twelve-man board of directors, whose members also included former Governor John Love, of Colorado, and Robert L. Geddes, Dean of the School of Architecture at Princeton University. On September 1, 1976, acting as representatives of the nine outside directors, these three men had summarily fired W. Richard Goodwin, a former instructor at New York University's Graduate School of Business Administration, who had been Johns-Manville's president and chief executive officer for nearly six years. Goodwin had been credited with rejuvenating the corporation by moving its headquarters from an old brick building on East Fortieth Street, in New York City, to a modern multimillion-dollar building constructed on the ten-thousand-acre Ken-Caryl Ranch, sixteen miles southwest of downtown Denver, which he had bought for seven and a half million dollars. He had also streamlined the company's business structure and raised its net profits a hundred and fifteen per cent. He had run afoul of Schroeder and some of the other directors, however, by proposing that Johns-Manville break its old financial tie with Morgan Stanley & Company, which had been its investment banker since 1935 and had been founded by several former partners of J. P. Morgan & Company, and by seeking to increase the number of directors from twelve to fifteen, and thus raising fears that he might be trying to pack the board. (On the day after Goodwin was forced to resign, McKinney was nominated and unanimously elected president of Johns-Manville by the full board of directors at a meeting presided over by Schroeder, who was then the vice-chairman of Morgan Guaranty Trust.)

As things turned out, Zwick resigned from the special committee soon after it was appointed, and May was able to attend only half of its meetings. This left Schroeder and Tucker to conduct most of the special committee's work and to formulate its recommendations. On August 16th, 17th, 18th, and 23rd, the committee met in New York City, at the midtown office of Davis Polk & Wardwell, and ate lunch in the dining room of the Fifty-seventh Street offices of Morgan Guaranty.

At the time McKinney appointed the special committee, Manville was looking for an independent public accountant to support the FASB-5 estimation of liability accrual that had been arrived at by Von Wald and the members of LAG. (The company could not very well ask Coopers & Lybrand, its own independent auditors, to perform this undertaking, because Coopers & Lybrand had approved eight successive filings with the S.E.C. stating that Manville's liability in the asbestos litigation could not be reliably estimated.) With Coopers & Lybrand out of the picture, it was decided to ask Robert O. F. Bixby, an audit partner in Price Waterhouse & Company—one of the largest public-accounting firms in the nation—to become an adviser to the special committee, presumably for the purpose of affirming that the requirements for filing an FASB-5 estimation had been met. Bixby was first approached by an official of Morgan Guaranty, for which Price Waterhouse was the auditor; then he was approached by Morgan Guaranty's audit partner at Price Waterhouse; and he was hired for the job by Tucker on August 9th.

On the face of it, Bixby's task was simply to declare whether or not the proper FASB-5 conditions for the accrual of a liability had been met. By way of preparation, he read the LAG report, which gave the misleading impression that Manville's outside consultants had supplied data to substantiate LAG's disposition-cost projection of one billion nine hundred million dollars. He was never told that Dr. Walker had serious doubts about the validity of the propensity-to-sue analysis, which was vital to this projection.

On August 16th, Bixby heard Von Wald and Victor deliver propensity-to-sue and disposition-cost projections to the members of the special committee, who received these projections after Dr. Walker had appeared before them to describe his predictions of the future incidence of asbestos disease. A day later, at another meeting of the special committee, Bixby agreed that the requirements for filing an FASB-5 had been met. Shortly after Bixby left this meeting, Michael J. Crames, a bankruptcy attorney with the New York firm of Levin & Weintraub, appeared before it to explain the benefits of filing for reorganization under Chapter 11. On the next day, August 18th, Schroeder and Tucker met with Parker, Von Wald, and several of Manville's financial officers to discuss the pros and cons of a Chapter 11 filing, and at the conclusion of that meeting Parker was authorized to retain Levin & Weintraub. On August 19th, Frederick L. Pundsack, whose retirement as the president and chief operating officer of Manville had been announced by the company earlier in the month, resigned from the company's board of directors, of which he had been a member for nearly six years, and on August 21st he sent a six-page handwritten letter to McKinney, urging him not to take Manville into a bankruptcy reorganization. In his letter, Pundsack said that Manville's cash flow was adequate for the next three to five years, and told McKinney that he was troubled by the speed with which the decision to file under Chapter 11 was being made. He described the impending action as "wrong for the stockholders, wrong for the employees, wrong for our creditors, wrong for our customers, and wrong for our suppliers."

His other reservations notwithstanding, Pundsack was certainly right about the speed with which Manville was moving toward its bankruptcy petition. On August 25th, the members of the special committee signed a report recommending that the board of directors "authorize the immediate filing of a petition in Chapter 11 as the action best calculated to conserve the Company's assets and businesses and, therefore, the best action to protect the rights of shareholders, creditors and actual and potential claimants." That same day, the full board of directors sat down to dinner at the Harley of New York Hotel, on East Forty-second Street, to decide what to do in light of this recommendation. Later that evening, foregone conclusion became reality when they voted their unanimous approval of a Chapter 11 filing, and on the next morning, when Manville filed a Chapter 11 petition in the Bankruptcy Court for the Southern District of New York, it became the richest and healthiest American corporation ever to do so.

OF the twelve directors on Manville's board, Schroeder, Tucker, and May were far and away the most influential in steering the company toward filing for bankruptcy, because of their membership in the special committee that had been appointed by McKinney. And of the three Schroeder appeared to be the dominant one, largely because of a very close fifty-year connection between Johns-Manville and J. P. Morgan & Company and its successor the Morgan Guaranty Trust Company, of New York, where he had spent his entire career. The connection with Morgan had come about in the following manner: In 1925, Thomas Franklyn Manville, a son of Charles B. Manville, one of the founders of the company, died, having been president since 1901, and was succeeded by his brother, Hiram Edward Manville. Thomas Franklyn left a large block of the company's stock to his son and namesake, Thomas Franklyn, Jr., known as Tommy and much publicized as a playboy; his fondness for marrying blond showgirls became the subject of numerous newspaper stories, which invariably described him as "the asbestos heir." The senior Thomas Franklyn Manville left another block of stock to his daughter and a third block to the company's several thousand employees. Soon after his brother's death, however, Hiram Edward bought up his nephew's holdings and most of the employees' stock as well, and in 1927 he sold four hundred thousand of Johns-Manville's seven hundred and fifty thousand outstanding shares to J. P. Morgan & Company, for about fifty dollars a share.

J. P. Morgan, which then took over a seat on Johns-Manville's board of directors, had big plans for its new acquisition. To begin with, Morgan brought in a trouble-shooting executive named Theodore Frelinghuysen Merseles, who had rescued Montgomery Ward from the depression of 1921, and Merseles brought with him a promising thirty-three-year-old assistant named Lewis Herold Brown. During the next two years, Johns-Manville's sales shot up to sixty-two million dollars, and the price of a share of its stock soared to two hundred and forty-two dollars. Then, in 1929—the year in which the first negligence lawsuits were filed against the company by employees in New Jersey who had developed asbestosis—Merseles died, the stock market crashed, and the Great Depression began. At that point, Lewis Brown took over the company, which during the next three years saw its annual sales drop by two-thirds and its stock fall to ten dollars a share. Moreover, he inherited a serious morale problem, for the house of Morgan was widely detested during the Depression, and the fact that Johns-Manville was known as a "Morgan company" rankled its employees, who had bitterly resented the fact that their stock had been sold to the banking firm. In 1933—the year in which Brown was authorized to settle eleven pending asbestosis lawsuits and buy off the plaintiffs' attorney—the Glass-Steagall Banking Act was passed; it prohibited commercial banks from underwriting corporate securities, and not long thereafter J. P. Morgan was forced to transfer its investment-banking activities to the newly formed Morgan Stanley & Company. Thereafter, Morgan Stanley handled Johns-Manville's investment-banking business while J. P. Morgan & Company kept the Morgan seat on Johns-Manville's board of directors. Meanwhile, under the stewardship of Lewis Brown the company regained its financial health. Indeed, in 1939—by then negligence lawsuits had been brought by diseased workers at Johns-Manville's plant in Waukegan, Illinois—*Time* hailed him as an enlightened businessman who had become "one of the chief spokesmen for all Big Business."

By this time, Schroeder, who was born in 1918, in Montclair, New Jersey, had graduated from Exeter Academy and was in his sophomore year at Yale. After graduating from Yale, in 1941, he served for four and a half years in the Navy, and attained the rank of lieutenant commander. Upon his discharge, he became a trainee at J. P. Morgan and began a career that saw him rise through the ranks: to executive vice-president in charge of domestic banking, in 1971; to vice-chairman and a seat on the board of directors, in 1976; and, following his retirement, in 1978, to become a member of the bank's directors' advisory council. Along the way, he had become the officer in charge of Johns-Manville's account, and in 1967—the year in which the ravages of asbestos disease began to receive attention in the press—he was named to the traditional Morgan seat on the board of directors of Johns-Manville, which he holds today.

A tall, dark-haired, bespectacled man of sixty-six, with a calm and self-assured manner, Schroeder lives in retirement near Damariscotta, Maine. He has exhibited a lifelong penchant for staying out of the limelight (he is not listed in *Who's Who*, for example), and very little has been written about him or his business activities. An exception is an account that appeared in the October, 1976, issue of *Fortune*, which described the firing of Goodwin as follows:

> Schroeder came directly to the point. He told Goodwin that the trio [Schroeder, May, and Zwick] represented the nine outside directors on J-M's twelve-man board, and that they all wanted him to resign.
>
> "Why?" stammered Goodwin, who was caught totally by surprise.
>
> "Under the bylaws of this corporation," replied Schroeder evenly, "we don't have to give you a reason."

Another exception is a two-day-long deposition in which Schroeder testified under oath, on March 15 and 16, 1983, during the bankruptcy proceedings. At that time, he was questioned by Tom Henderson, a leading asbestos litigator from Pittsburgh, who zeroed in on what Schroeder had known about asbestos disease and when he had come to know it.

"Did you understand in the late nineteen-sixties that asbestosis was potentially disabling?" Henderson asked.

"Yes," Schroeder replied.

"Did you know in the late nineteen-sixties that asbestosis was potentially fatal?"

"I don't think I did," Schroeder replied.

"When did you first learn that asbestosis was potentially fatal, if ever?"

"I'm not sure that I have yet," Schroeder answered.

"Did you learn in the late nineteen-sixties that asbestos was the principal if not the exclusive cause for malignant mesothelioma?" Henderson asked.

"I don't recall on that point," Schroeder said.

"Do you know now that asbestos is the primary if not the exclusive cause of malignant mesothelioma?"

"My information is that it's at least a fifty-fifty chance that 'meso' is asbestos-related," Schroeder said.

"Who gave you the idea that there is a fifty-fifty chance of mesothelioma being a result of asbestos exposure?" Henderson inquired.

"A number of sources," Schroeder replied.

"Who?"

"Selikoff," Schroeder said. "E.R.I. studies—at least the presentation made to us." Here, Schroeder was referring to the projections and assessments that had been made for Manville by Dr. Walker and his colleagues at Epidemiology Resources, Inc. "The fifty-fifty was an educated guess on the part of people who get paid to make educated guesses."

"When did you first have the information that it was at least a fifty-fifty chance that mesothelioma resulted from asbestos exposure?" Henderson asked.

"I think the first real realization of that on my part was last summer," Schroeder said.

"Last summer?"

"Yes."

"Did you talk to Dr. Selikoff before last summer?"

"I have never met Dr. Selikoff," Schroeder said.

"Did you have the opportunity to read any of what Dr. Selikoff had said in any of his medical and scientific articles?"

"No," Schroeder replied. "I had the opportunity, but I did not do it."

Henderson went on to ask Schroeder whether Manville's board members had ever discussed the allegations of the plaintiffs concerning conspiracy.

"We were concerned, and are concerned, over the doctrine of implicit guilt here,” Schroeder said. “We don’t think it’s fair. We don’t think it’s accurate. We don’t think the record supports it, and we continue to be upset about it.”

“What is the doctrine of implicit guilt?” Henderson asked.

“A coverup,” Schroeder replied.

“You are saying you don’t believe there was any coverup?”

“Absolutely,” Schroeder said.

“Did you ever read the so-called Sumner Simpson documents?”

“I have not,” Schroeder replied.

“I would invite you to,” Henderson said.

Later in the deposition, Henderson asked Schroeder if he had been told about the testimony of Dr. Kenneth W. Smith, the former medical director of Johns-Manville. When Schroeder said he had not, Henderson asked him if he felt he should have been.

“I would assume that management had its own reasons for not telling me,” Schroeder replied.

“Would that be the same answer if I told you about the affidavit of one Charles Roemer?” Henderson asked. “Have you had the opportunity to review that affidavit?”

“Not to my knowledge,” Schroeder replied.

“Let me see if I can refresh your recollection to see whether or not you might have,” Henderson said. “This was an attorney . . . back in the nineteen-forties, who had been told by Vandiver Brown”—Johns-Manville’s corporate counsel at the time—“that the Manville employees who were exposed to asbestos sometimes contracted asbestosis, sometimes contracted other diseases, but they just regarded them as another factor in the bottom line, and that they just let them die and paid their claims. Does that ring a bell?”

“No,” Schroeder replied.

As it happened, the Roemer affidavit that Schroeder said he did not know about was filed in the bankruptcy proceedings a month after Manville filed its bankruptcy petition, and it provides a fascinating footnote to the assertion of plaintiff lawyers that the company should not be allowed to use Chapter 11 to evade its obligations under the law to the victims of asbestos disease. Charles H. Roemer, a prominent attorney in Paterson, New Jersey, was then in his early eighties, and was living in Fair Lawn and still practicing law, although he was in frail health. All proceedings pending against Manville had been automatically stayed when Manville filed for bankruptcy, but Judge Burton R. Lifland, who was presiding over the Chapter 11 proceedings, lifted the stay for the purpose of preserving Roemer’s testimony, on being informed by Michel Baumeister, a plaintiff lawyer, that Roemer was “the one living link corroborating all the legal evidence we have compiled which shows that the Manville company knew of the dangers of asbestos at least forty years ago or more,” and allowed Roemer to make his statement. In September of 1982, Roemer, in an affidavit that Baumeister later submitted to the court in support of his request to depose him, said that around 1942 or 1943 his cousin Dr. Jacob Roemer had found that workers at the Union Asbestos & Rubber Company’s Paterson plant had developed signs of asbestos disease. Charles Roemer went on to say that when he learned of this he immediately informed Robert Cryor, the plant manager (he would later die of mesothelioma), and Edward Shuman, the assistant plant manager, and that they set up an appointment with Vandiver Brown and Lewis Brown at Johns-Manville corporate headquarters, in New York City. Roemer said that he, Cryor, and Shuman asked the Johns-Manville officials whether their physical-examination program had turned up similar findings and, if so, what Johns-Manville was doing about it. According to Roemer, Vandiver Brown admitted that Johns-Manville’s physical-examination program had produced X-ray evidence of asbestos disease among workers exposed to asbestos, and that it was Johns-Manville’s policy not to do anything and not to tell the employees of the X-ray findings. “Vandiver Brown went on to say that it was foolish for us to be concerned, and that if Johns-Manville’s workers were told, they would stop working and file claims against Johns-Manville, and that it was Johns-Manville’s policy to let them work until they quit work because of asbestosis or died as a result of asbestos-related diseases,” Roemer declared.

At a subsequent deposition taken in April of 1984, Roemer remembered that he had said, “Mr. Brown, do you mean to tell me you would let them work until they dropped dead?” and that one of the Browns had replied, “Yes, we save a lot of money that way.”

When he was asked by the attorney who was deposing him if he could recall the time of day the meeting with the Johns-Manville officials took place, Roemer said that it was held before noon. “I remember that distinctly, because I had lunch with them in their boardrooms after the meeting,” he added.

“I see,” the attorney said. “Why do you recall the lunch so vividly?”

“It was the first time in my life I had lobster for lunch,” Roemer replied.

As for Schroeder’s deposition, during the second day it was concerned partly with his role as chairman of the special committee that had investigated the pros and cons of a bankruptcy filing in August of 1982. Schroeder testified that the members of the special committee had at first resisted the idea of filing under Chapter 11, and had even tried to think of ways that would enable Manville to “tough it out” and survive its legal difficulties, but when Robert Bixby, the Price Waterhouse accountant, came out for an FASB-5 liability accrual, Schroeder said, the committee had been forced to accede to the inevitability of a bankruptcy reorganization. He then talked about what Manville hoped to achieve by going into Chapter 11.

“What we were really doing was buying cash, buying protection, and buying time,” he said. “The downside, obviously, is the stigma that’s attached in most people’s mind [to] a company, any company, filing under a Chapter [11].”

“Did you also consider the downside of a Chapter 7 liquidation?” Henderson asked.

“We never contemplated it,” Schroeder replied. “Again, on the going-business theory that our creditors and the diseased people, with whom we have an enormous and real interest, would be benefitted the most by our protection as a going business under Chapter 11.”

For a moment, Tom Henderson looked at Schroeder without saying anything. At the time of the bankruptcy filing, Henderson had been representing plaintiffs in some three hundred and fifty asbestos-disease lawsuits that were pending in Maine, Maryland, Pennsylvania, Michigan, New York, and Illinois. Johns-Manville had been named as a defendant in virtually all these cases, along with

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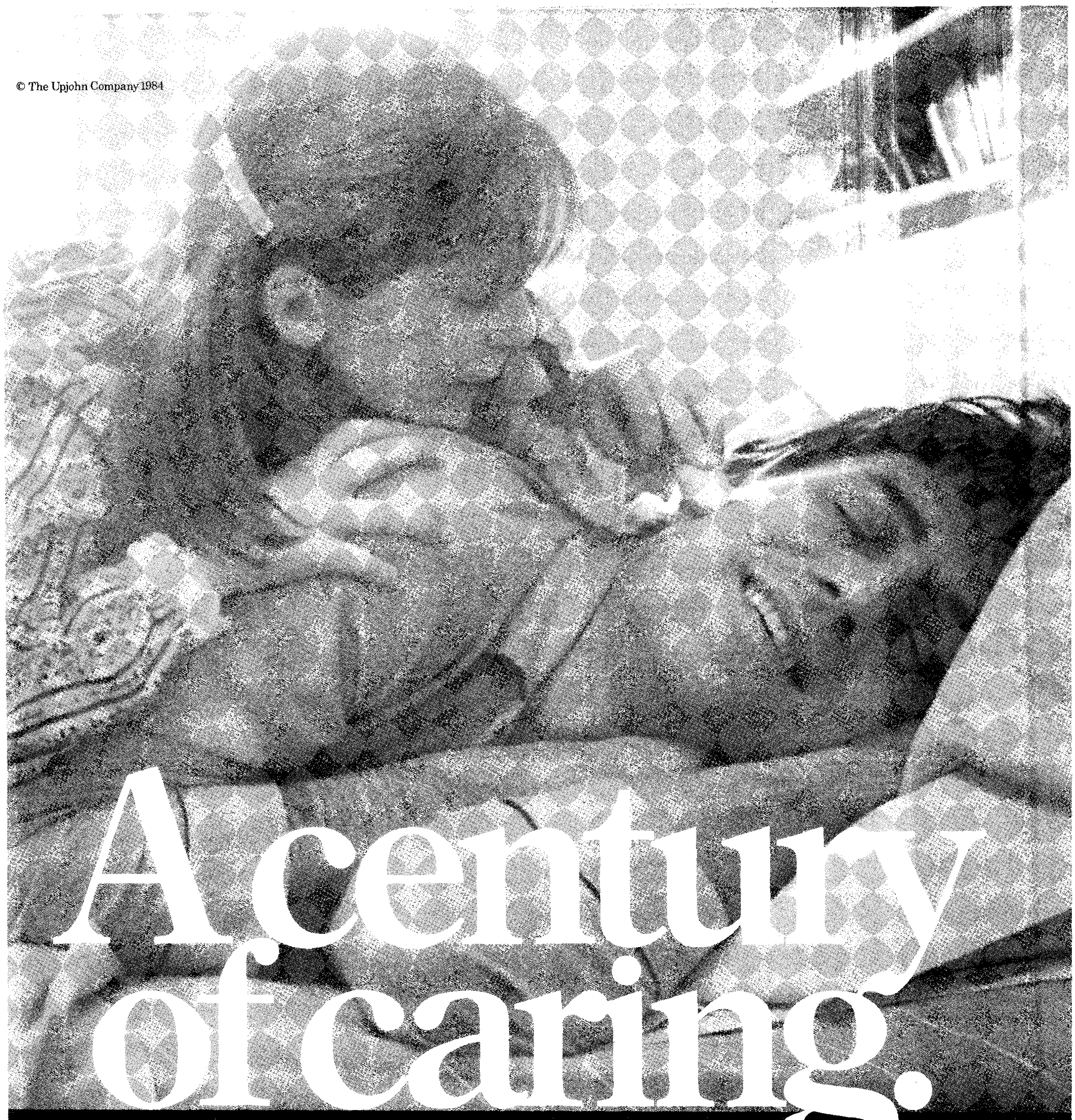

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some twelve other asbestos manufacturers that were usually named as defendants in asbestos-product-liability lawsuits. Henderson is a mild-mannered, thoughtful man, who is given to neither invective nor overstatement, but, like virtually all his colleagues, he harbors a profound contempt for the past conduct of most of these companies, and often refers to them in private as "the dirty dozen." Now, after listening to Schroeder try to claim that Manville—the company that Henderson and his colleagues had spent ten years proving was far and away the most culpable of all—had "an enormous and real interest" in the thousands upon thousands of workers who had been afflicted with asbestos disease, none of whom had received a penny of compensation from the company since it filed for bankruptcy seven months earlier, Henderson shook his head in disbelief. "You will never convince me of that, Mr. Schroeder," he said softly.

In the late spring of 1982—three months before Manville filed for bankruptcy reorganization—the company announced that because of deepening financial problems it was planning to reduce by a thousand its salaried work force of eighty-eight hundred employees. Within a week or so, the company reported that it had lost more than five million dollars in the first quarter of the year—its first quarterly loss in half a century. By then, the executive dining room at the Ken-Caryl Ranch headquarters had been closed; water had been drained from the reflecting pools in front of the headquarters building; hallway lights had been dimmed; and the corporate Grumman G-2 jet had been leased.

Part of Manville's financial woes had been caused by a deep recession in the housing industry, but by far the biggest cloud hanging over its head was the asbestos litigation, which had made it one of the most often sued companies in history. Manville had by then been named as a defendant in more than ten thousand asbestos-disease lawsuits; its legal costs were approaching two million dollars a month; and juries had begun to award huge punitive as well as compensatory damages against it. Nevertheless, the company continued to go to trial in cases that it might formerly have settled out of court. Some plaintiff attorneys theorized that Manville had quit making realistic settlement offers either to avoid cash-flow problems or in the hope that insurance questions would be settled by the time the cases were tried. What they didn't suspect was that the company was taking a hard line in the litigation because it was planning to take advantage of the federal Bankruptcy Code provision that would provide an automatic stay of all pending civil litigation against it, including appeals of adverse verdicts.

A sign of what lay ahead appeared at the end of July, when UNR Industries, of Chicago—a steel-fabricating firm that owned UNARCO, an asbestos manufacturer—filed under Chapter 11, citing the fact that it was a defendant in more than twelve thousand asbestos-disease lawsuits and that the litigation was costing it more than a million dollars a month. Within a few days, Manville and other defendant manufacturers were filing blanket motions to stay all proceedings against them in courts across the nation in a frenzied effort to win a nationwide freeze of all asbestos-disease litigation. For the most part, the scramble to take refuge behind UNR's bankruptcy petition met with failure, although some courts did grant temporary stays of as much as five months. As far as Manville was concerned, however, the whole question became redundant at 8:56 A.M. on August 26th, when the company filed its own petition for reorganization. The filing of the petition gained for the company an automatic stay in some eleven thousand asbestos-disease lawsuits that were pending against it, and gave it a hundred and twenty days in which it had the exclusive right to file a plan for reorganization.

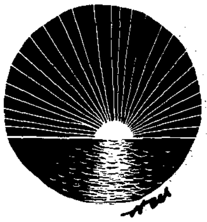
In an affidavit that accompanied Manville's bankruptcy petition and was signed by the company's treasurer, James F. Beasley, Manville acknowledged that it had been found liable for punitive damages by juries in ten separate cases that had been decided in 1981 and 1982, and that the average punitive damages that had been awarded against it had come to six hundred and sixteen thousand dollars a case. However, in a full-page advertisement-interview explaining Manville's position to the public, which ran on August 27th in the New York *Times*, the Washington *Post*, the *Wall Street Journal*, and other leading newspapers across the nation, McKinney barely mentioned awards of punitive damages against the company. Instead, he depicted Manville—a corporation with assets of more than two billion dollars—as being unfairly victimized by thousands of unwarranted lawsuits, and he blamed the federal government, Congress, and Manville's insurance carriers for the company's predicament. He went on to stress that the bankruptcy filing did not signify a financial failure and that Congress should enact "a statutory compensation program for asbestos injuries."

As might be expected, Manville's Chapter 11 filing touched off another scramble by the remaining defendant asbestos manufacturers to file motions for an indefinite stay of claims in almost every jurisdiction in the nation. By late autumn, however, most judges had ruled that the protection of Chapter 11 applied only to Manville and UNR. As for the plaintiff lawyers who had been caught unawares by Manville's action, they reacted with a mixture of astonishment, fury, and outrage, calling the Chapter 11 filing a fraudulent abuse and perversion of the bankruptcy laws. Early in September, nine trustees of the board of the Asbestos Litigation Group—a consortium of about a hundred and fifty lawyers representing almost ninety per cent of the sixteen thousand asbestos victims who were then suing Manville—met in New York City and announced that they were hiring Robert Rosenberg, of Moses & Singer, one of the nation's leading bankruptcy-law firms, to handle plaintiff interests in the bankruptcy proceedings. (The nine trustees included Stanley Levy and Tom Henderson; Paul Gillenwater, of Knoxville; Gene Locks, of Philadelphia; Fred Baron, of Dallas; Ronald Motley, of Charleston, South Carolina; Marlin Thompson, of Orange, Texas; Robert Steinberg, of Los Angeles; and Kenneth Lynch, of San Francisco. Among them, they represented clients in more than six thousand asbestos-disease lawsuits.) Manville, for its part, had already retained Michael J. Crames, a partner in

Levin & Weintraub, and Stephen Case, of Davis Polk & Wardwell.

Meanwhile, the two sides were engaged in a hard-fought duel over which of them was in the right, and this duel became a favorite topic of newspaper editorial writers, who, for the most part, failed to grasp the meaning and the importance of the asbestos lawsuits—probably because during the ten years the litigation had been taking place newspapers across the nation had, by and large, failed to cover it adequately and explain the issues involved. Thus, on August 27th, the day after Manville filed for bankruptcy, an editorial writer for the *Times* found himself sufficiently ignorant of the basic evidence in the greatest toxic-tort litigation in the history of American jurisprudence to be able to equate the human agony of asbestos disease with Manville's fiscal uncertainties. "Asbestos is a tragedy," he wrote, "most of all for the victims and their families but also for the companies, which are being made to pay the price for decisions made long ago." On the same day, the writer of an editorial that appeared in the Washington *Post* missed the entire point of what had been going on for a decade in the nation's courtrooms by complaining that the asbestos saga was a sad commentary on the effectiveness of the judicial system. A few days later, the *Post* received a comeuppance on public television's "MacNeil-Lehrer Report" from Peter Nowinski, the Justice Department attorney who was lead counsel for the government in the asbestos litigation. After saying that the newspaper's charge of judicial ineffectiveness was based on Manville's contention that too much money was being spent for legal fees, and not enough was going to the plaintiffs, Nowinski pointed out that a great percentage of those fees was being paid out by Manville to resist the claims that were being brought. Nowinski went on to remind his audience that it was the plaintiff attorneys who had exposed Manville's guilt to begin with, by bringing the Sumner Simpson papers to light.

EARLY in September, Cornelius Blackshear, the United States trustee who was handling the administrative details of Manville's bankruptcy, asked Judge Lifland's permission to appoint a committee to represent the interests of claimants with asbestos disease. Several days later, attorneys for the Keene and GAF Corporations—companies that had been named as defendants in several thousand asbestos-disease lawsuits—moved to have a separate committee of asbestos-litigation co-defendants appointed, so that the interests of asbestos manufacturers that had not filed for bankruptcy reorganization could be looked after. In October, Lifland acceded to Blackshear's request; however, he insisted that a single committee of asbestos-related litigants and creditors be formed, and on October 8th Blackshear appointed seventeen plaintiff attorneys to serve on it, as well as four co-defendant asbestos manufacturers and a shipyard company to serve as ex-officio members. Among the plaintiff attorneys on the committee were Levy (who was elected to be its chairman), Locks, Baron, Gillenwater, Henderson, Motley, Steinberg, and Sweeney. In addition, a committee was formed to represent Manville's unsecured commercial creditors—they included more than a hundred banks and other corporations to which Manville owed money. Its chairman was Albert B. Gordon, Jr., a vice-president at Morgan Guaranty. Later, an equity committee was appointed to represent the shareholders of Manville's common and preferred stock, and an unofficial committee was formed to look after the interests of several thousand schools and school districts that had potential claims against Manville, whose asbestos products had been widely used in the construction of school buildings across the nation. The committees representing the asbestos-disease claimants, the commercial creditors, and the shareholders were given the right to retain legal counsel and the services of other court-approved professionals at Manville's expense.

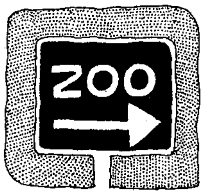


Soon after it filed for reorganization, Manville took advantage of the shield provided by the Bankruptcy Code to announce that it would stop payment on a five-million-dollar settlement it had reached in May with a hundred and forty-one former employees of the Pearl Harbor Naval Shipyard, in Honolulu, or their widows. The company had already failed to make a payment on a one-million-five-hundred-thousand-dollar settlement it had reached in March with several asbestos plaintiffs in California. Some idea of the human consequences of such defaulting can be seen in a case that was settled out of court by Gillenwater three and a half weeks before Manville filed under Chapter 11. The case involved an asbestos worker in Nashville named James W. Smith, who was suffering from lung cancer and was not expected to live more than thirty days, and Manville offered to settle for sixty thousand dollars on the day it went to trial. At that time, Gillenwater visited Smith, who was in the hospital, and told him that he felt the offer was ridiculously low but that a jury award could be delayed on appeal for two or three years. After thinking things over, Smith decided to accept the sixty thousand dollars, so that his affairs could be settled and he could be sure his wife would receive some money before he died. On August 16th, a draft for sixty thousand dollars was received from Manville, along with the usual form releasing the company from any further claim in the matter. The form and the draft were signed by Smith and his wife, Sara, on August 24th, and on August 25th Gillenwater deposited the sixty-thousand-dollar draft in a trust account. On August 26th, upon learning that Manville had filed under Chapter 11, Gillenwater telephoned the Republic Bank of Brownwood, in Brownwood, Texas—the bank on which the Manville draft was issued—to ask if it would be honored. He was informed that it would not. On August 31st, deeply distressed that his wife had received no money and that his claim against Manville was unresolved, Smith died.

A counterattack against the Manville bankruptcy was launched in early November, when a motion to dismiss the bankruptcy proceedings was filed by the Committee of Asbestos-Related Litigants. The motion alleged that Manville was using the Bankruptcy Code to impair "the constitutionally protected rights of present and future victims of asbestos-related diseases and their survivors . . . to obtain full compensation for personal injuries and wrongful deaths," and that it had filed for Chapter 11 in bad faith.

On November 10th, a hearing was convened before the Senate Judiciary Committee's Subcommittee on Courts to investigate whether it was proper for a solvent company such as Manville to file for reorganization under the federal Bankruptcy Code. The first witness was G. Earl Parker. He urged Congress to "legislate a satisfactory solution to the asbestos-health disability dispute," declaring that the personal-injury litigation system was "incapable of providing adequate compensation for disabled workers."

The plaintiffs' side of the story was presented by Robert Steinberg, of the Los Angeles firm of Rose, Klein & Marias. He appeared before the subcommittee in behalf of the Asbestos Litigation Group, which was then urging Congress to make changes in the Bankruptcy Reform Act of 1978. A fifty-three-year-old attorney who had won a jury verdict of a million two hundred thousand dollars for a client in a 1980 asbestos-disease case, Steinberg told Dole what he and his fellow-attorneys in the plaintiffs' bar thought of Manville. "To us, Manville is more than a legal adversary," he said. "Its corporate actions shake our faith in the free-enterprise system. Too many victims of asbestos disease have died for their survivors and friends to shed a tear for a company that has shown so little compassion for the victims of its willful acts. If Manville is successful in this attempt to misuse the law to evade responsibility for its deliberate, intentional actions, then our faith in the legal system will also be shaken."



Later in his testimony, Steinberg addressed the complex crucial issue of future claimants. "The most tragic consequences of Manville's action in filing for Chapter 11 will be suffered by those unknown numbers of individuals who have yet to suffer the ravages of asbestos-related disease," he said. He warned that these future creditors should not be forced to adhere to an agreement that had been made without their participation.

By this time, Manville's Chapter 11 filing was causing considerable consternation among its former co-defendants and their insurance carriers, for they were being required in many jurisdictions to continue to defend asbestos-disease lawsuits, and they saw themselves as holding the bag while Manville continued to do business under the protection of the bankruptcy laws. On November 19th, Arthur Olick, of Anderson, Russell, Kill & Olick, a New York City law firm that represented, among others, the Keene Corporation, asked Judge Lifland to extend the automatic-stay provisions of the Bankruptcy Code to Keene and other co-defendant asbestos-insulation manufacturers, among them Owens-Corning, Owens-Illinois, Fibreboard, GAF, Raybestos-Manhattan, Pittsburgh Corning, Celotex, and Eagle-Picher. Olick argued that Manville's absence from the asbestos cases imposed a severe hardship on the co-defendants, who had depended on Manville to supply key documents and expert witnesses in the defense of asbestos-disease lawsuits. He even went as far as to describe the co-defendants as progeny who had been "cast adrift in shark-infested waters."

Judge Lifland reserved decision on Olick's motion, and at the same time authorized Manville's creditors to launch a broad investigation of the company under the rules of the Bankruptcy Code. The Committee of Asbestos-Related Litigants then requested him to order Manville to produce all documents relating to its Chapter 11 filing and also all notes and records from McKinney and other high-ranking officials which dealt with the corporate restructuring that had taken place in the autumn of 1981. By making this request, the committee acknowledged that its efforts to get Congress to make changes in the Bankruptcy Code had failed, and prepared to do battle with Manville in the intricate arena of Chapter 11.

THE insurers for the co-defendants were watching from the sidelines, aware that once the temporary stays were lifted they were going to have to resume paying defense costs and indemnification, and fearful that they would have to pick up some or all of Manville's share of the litigation. As might be expected, these carriers were trying to figure a way out of their legal and financial bind. On September 10th, two weeks after Manville's surprise Chapter 11 filing, Leslie Cheek III, vice-president for federal affairs of the Crum & Forster Insurance Companies, of Morris Township, New Jersey—a leading carrier of workmen's-compensation insurance—sent a highly revealing confidential memorandum to Sidney F. Wentz, the president of his company. An experienced observer of the Washington political scene, Cheek had previously written an article for *The National Underwriter* in which he pointed out the "exquisite irony" of the asbestos industry's attempts to cut off the tort rights of asbestos-disease victims against the manufacturers of asbestos products, noting that "this approach is embodied in the bill Johns-Manville persuaded Colorado Democratic Senator Gary Hart to reintroduce this year." In his memo to Wentz, Cheek wrote that Manville's bankruptcy petition created a unique opportunity for the insurance industry to solve the problems created by asbestos-disease cases. He recommended that Crum & Forster advocate an amendment to the federal Bankruptcy Act that would authorize the bankruptcy court to take jurisdiction over the interests of the co-defendants in all asbestos-disease claims that were pending against Manville, as well as all insurance claims and counterclaims involving any of the co-defendants in the asbestos cases. According to Cheek, "such an amendment would enable the bankruptcy court to resolve the insurance-coverage disputes in the course of marshalling the assets of the bankrupt, and to consolidate and streamline the processing of the thousands of pending and future asbestos-related disease claims."

In advocating this best of all possible worlds for the insurance carriers, Cheek reminded Wentz that the Bankruptcy Reform Act of 1978 had significantly broadened the powers of bankruptcy judges, granting them jurisdiction over all civil proceedings arising under Chapter 11 or related to cases under Chapter 11. "The statute in its current form would appear to enable a bold bankruptcy judge to assert jurisdiction over all of the asbestos-related disease and insurance claims," he wrote. He was careful to point out, however, that the Supreme Court had recently ruled that those provisions of the 1978 Bankruptcy Reform Act which broadened the powers of bankruptcy judges would be unconstitutional on October 4, 1982, unless Congress gave bankruptcy-court judges the same protection—lifetime tenure and irreducible compensation—given to district-court judges under Article III of the Constitution. Cheek then demonstrated how disdainfully manipulative the insurance industry can be when it comes to dealing with politicians. After reminding Wentz that Senator Dole had described the Manville bankruptcy petition as "dubious," and that Dole was said to be in favor of "clipping the bankruptcy judges' wings," Cheek wrote, "It is entirely possible that the Senator's mind could be changed if he were to be given an opportunity to be a hero to everyone involved in the asbestos mess, including his Congressional colleagues." He then explained his solution to the asbestos problem:

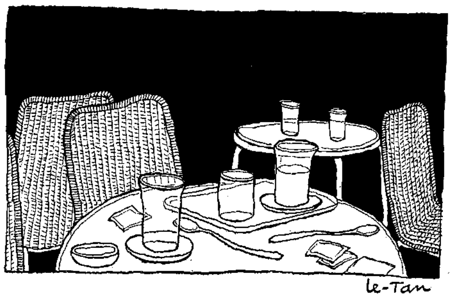
> If Congress were, in the narrow context of the asbestos suits, to reaffirm the authority of the bankruptcy judges to deal with all matters pertaining to claims against and insurance coverage for claims against the various defendants, it would have several salutary effects. First, the reaffirmation of the availability of the bankruptcy shelter might deter still-healthy asbestos defendants from taking the route that Manville and UNR have followed. It would also offer those defendants, as well as Manville and UNR, the prospect of a speedy resolution of the insurance litigation and a more expeditious and less expensive handling of the thousands of claims against them all. A Bankruptcy Court could appoint special masters to handle the insurance matters, and other special masters to divide the claimants into rational classes (asbestosis, mesothelioma and other lung cancer victims) and award compensation. It would vastly reduce legal expenses, in that all defendants could pool their resources in a common defense of individual claims. And, most important, the ultimate payout would be reduced to a finite number, pursuant to agreements demanded by the Bankruptcy Court as the price for reorganization of the bankrupt companies.

Thus did Cheek describe the ultimate goal of the insurance industry as one of keeping asbestos-disease litigation out of the tort system, so that the bankruptcy court could set a "finite number" (in other words, a figure that the insurance companies could live with) on the claims of thousands upon thousands of sick, suffering, and dead asbestos workers and their families. It was a goal that fitted in nicely with Schroeder's later explanation of why Manville had filed for reorganization to begin with. "What we were really doing was buying cash, buying protection, and buying time," Schroeder said in his deposition.

Cheek and his fellow-insurers were not the only people who were attempting to figure out how to use the bankruptcy scenario to best advantage. Many of the co-defendant asbestos manufacturers were trying to decide whether or not to follow Manville's lead and file for reorganization under Chapter 11. (As things turned out, just one of them—the AMATEX Corporation, of Norristown, Pennsylvania, which had been a manufacturer of asbestos cloth for thirty-two years—did file for protection under Chapter 11, on November 1st.) And manufacturers of toxic-chemical and other hazardous products, together with their insurers, were keeping a close watch on the bankruptcy proceedings in an effort to determine whether Manville had made a grave miscalculation or pulled off a financial ploy that could serve as a useful model if they should ever be confronted with similar litigation. The plaintiff attorneys on the Committee of Asbestos-Related Litigants, for their part, were trying to figure out how best to protect the interests of their sixteen thousand-odd clients, whose lawsuits against Manville had been stayed but whose right to a jury trial the plaintiff attorneys had declared they were determined to preserve. The big question was who was looking out for the rights of the future claimants—the tens upon tens of thousands of people who had not yet developed asbestos disease but would surely do so in the future.

From the outset of the Chapter 11 proceedings, these future plaintiffs posed an enormously complex and difficult problem—one that was almost without precedent in American jurisprudence. The Manville people dearly wanted to put a dollar value on their claims, in the hope of settling them once and for all (and as cheaply as possible) in bankruptcy court. So did the insurance carriers, who were anxious to get the asbestos claims out of a tort system over which they had little control. As for the plaintiff attorneys, they not only saw themselves as the representatives of the tort system but also claimed to feel an obligation to preserve its role in the solution of the asbestos-disease problem.

"We made it clear to Manville from the start that we were not going to barter away the rights of the future plaintiffs," Stanley Levy said. (At the time, he was with the New York law firm of Kreindler & Kreindler. In the winter of 1985, he left to form the firm of Levy, Phillips & Konigsberg.) "The seventeen of us on that committee had spent years of time and effort bringing Manville to justice for its past actions, and we were not about to take it upon ourselves to discharge the legal rights of more than a hundred thousand people for the convenience of Manville and its insurance carriers. In short, we wanted the Manville people to know that by filing for bankruptcy—a maneuver that we believed had been completely motivated by the desire to escape their legal responsibilities to the victims of asbestos disease—they had chosen a costly alternative."



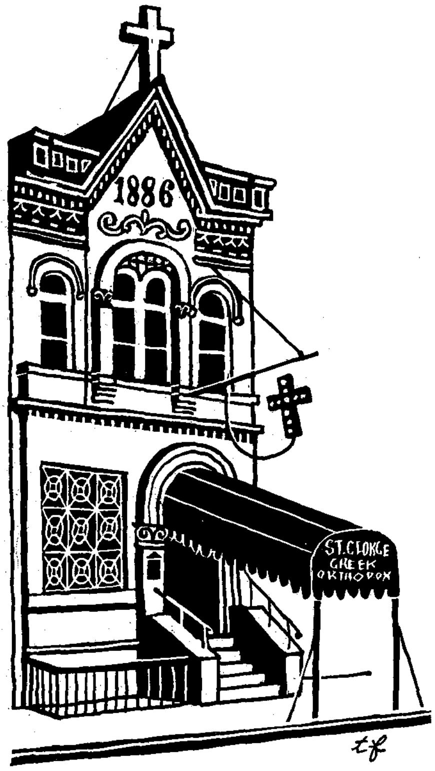
As the impasse between Manville and the plaintiff lawyers deepened in the fall of 1982, the insurance carriers continued to search for a way out of the dilemma they themselves were facing. In late October, officials of Commercial Union and Travelers agreed that if there was to be any chance at all of achieving a compromise among the plaintiffs, the insurers, and the manufacturers involved in asbestos-disease litigation it would have to be facilitated by someone of national stature.

The insurance people then got in touch with James F. Henry, the president of the Center for Public Resources—a nonprofit research group in New York which was engaged in studying alternative ways of settling potentially litigious disputes—and Henry recommended a dozen or so lawyers connected with either the financial establishment or the business community, who were turned down by the plaintiff attorneys. During its studies, the center had established a judicial panel of prominent figures, including Archibald Cox, the Harvard Law School professor whose conduct as special prosecutor in the Watergate affair had won him widespread acclaim; Elliot Richardson, the Attorney General who had resigned rather than carry out Nixon's order to fire Cox in the so-called Saturday Night Massacre; and Harry Wellington, the Dean of the Yale Law School. Cox was unable to accept the job, and Richardson was rejected by the plaintiff attorneys because he was working for Milbank, Tweed, Hadley & McCloy, a New York City law firm that had been retained as counsel for the committee representing Manville's unsecured creditors. Henry then recommended Wellington for the job of acting as moderator of the asbestos dispute. At that point—in October of 1982—Henry set up a secret meeting at the Bar Association of the City of New York, which was attended by Wellington, by a dozen leading asbestos-plaintiff lawyers, by an equal number of senior insurance-company executives, and by high officials of a dozen or so of the leading co-defendant asbestos manufacturers. And after further meetings Wellington was asked to serve as chairman of a group that would attempt to resolve the problem. Wellington accepted the offer.

Under the guidance of Wellington, representatives of the three groups began meeting to see if they could resolve some of their differences, and they continued to meet throughout 1983 and 1984. The negotiations, which soon became known as the Wellington Group talks, had three main goals. To begin with, the leading insurance carriers set out to reach agreement among themselves on how much they were willing to pay to settle the asbestos claims, how they should apportion their individual liability in the claims, and which of them should assume the legal defense of the various co-defendant manufacturers. Second, the carriers, once they had agreed on a united offer, would have to negotiate with the asbestos manufacturers to see if they were willing to accept it. The third step of the process would be for the carriers and the manufacturers to establish a voluntary claims-resolution facility, where asbestos claims could be settled or arbitrated, and to win the approval of the plaintiff attorneys. Although it was a condition of the plaintiff attorneys that Manville take no part in these talks, the company had a huge stake in them, because agreement between the insurers and the co-defendant manufacturers was vital to any resolution of the asbestos-disease litigation as a whole, and might well be looked upon by Judge Lifland as a way out of the bankruptcy bind into which Manville and its creditors had become locked.

As the Wellington Group talks got under way, it was becoming clear that Manville was thriving in Chapter 11. Indeed, by December 9th the price of a share of the company's stock had climbed to nine dollars and fifty cents from four dollars and twenty-five cents on August 27th, the day after Manville filed for bankruptcy. Moreover, Manville reported that in the third quarter of 1982 it had enjoyed a profit of twenty-four million three hundred thousand dollars, compared with twelve million six hundred thousand a year earlier. By this time, the subject of the asbestos industry's culpability had practically disappeared from the nation's newspapers, and had been replaced by upbeat assessments of the bankruptcy proceedings. Typical was a story by Joann S. Lublin, which appeared on the front page of the *Wall Street Journal* on December 20th, under the reassuring headline "OCCUPATIONAL DISEASES RECEIVE MORE SCRUTINY SINCE THE MANVILLE CASE." In her article, Lublin reported that twenty thousand lawsuits had been brought against Manville and other asbestos manufacturers by sick asbestos workers, who "often . . . sued because they thought that they couldn't win workers' compensation under state laws." This, of course, was nonsense. Twenty thousand sick asbestos-insulation workers had brought product-liability lawsuits against Manville because workmen's-compensation benefits from their employers amounted to a pittance compared with out-of-court settlements and with compensatory damages awarded by juries across the country—who, after hearing evidence of the company's culpability, were also meting out huge punitive damages for outrageous and reckless misconduct.

Before the end of the year, Federal Judge John E. Sprizzo, of the Southern District of New York, showed what he thought of Manville by informing some of the company's attorneys that their client came to his court with "unclean hands," and could not make use of its equitable powers. On the day before Christmas, however, Bankruptcy Judge Lifland granted Manville a sixty-day extension of the hundred-and-twenty-day period he had already granted it for filing a plan for reorganization under Chapter 11. This was merely the first of the extensions and favorable rulings that Lifland would grant Manville over the next two and a half years, to the disappointment and consternation of the plaintiff attorneys, who felt that he was overconcerned with how to facilitate Manville's return to the normal business world. Meanwhile, as high-priced bankruptcy attorneys continued to finesse Manville's way through the coils of the Bankruptcy Code—Case and Crames had charged the company two hundred thousand dollars apiece in the three months that followed its Chapter 11 filing—thousands of disabled and uncompensated asbestos workers continued to suffer the agonies of asbestos disease.



By January of 1983, most of the participants in the asbestos drama had begun to resign themselves to a long-drawn-out struggle. On the tenth of the month, Judge Lifland ruled that the automatic stay of litigation against Manville did not apply to the co-defendant asbestos manufacturers, and declared that any future stays must be determined by the courts before which the individual cases were pending. Since many, if not most, courts in the nation had already decided against further stays for the co-defendants, Lifland's decision simply paved the way for resumption of the asbestos litigation in earnest. This was a prospect that was hardly inviting to the co-defendants, for just a month earlier a Philadelphia jury had awarded a million two hundred thousand dollars in compensatory damages against, among others, Pittsburgh Corning, Eagle-Picher, Fibreboard, and Keene, in a case involving a shipyard worker who had developed nondisabling thickening of the pleural lining of the lungs.

Meanwhile, the asbestos manufacturers began to intensify a media campaign to influence public opinion and obtain passage of federal legislation that would help them cope with their legal and financial burdens. For Manville's part, this consisted of spending more than a million dollars by the spring of 1984 (with Judge Lifland's approval) to run advertisements in newspapers describing the company's plight, and to hire public-relations and lobbying firms in an attempt to persuade congressmen and senators that it required and deserved federal assistance.

As the winter wore on, lawyer members of the Asbestos-Related Litigants Committee buckled down to the tedious work of discovery as they prepared to take the depositions of

Manville's directors, who were scheduled to testify in March and April. At the same time, a negotiating committee headed by Levy held periodic meetings with Manville people and their attorneys, hoping to reach agreement on a plan of reorganization for the company. The two sides were far apart, however. The plaintiff attorneys were demanding that the sixteen thousand five hundred lawsuits that were pending against Manville at the time of its bankruptcy filing were the only health claims that should be dealt with in the bankruptcy proceedings, but Manville was insisting that the future claims be dealt with first.

While Manville and its creditors jockeyed for position in the bankruptcy proceedings, asbestos lawsuits against the co-defendant manufacturers went forward in other parts of the country. The outcome of these lawsuits was published in the *Asbestos Litigation Reporter*, a fortnightly journal that had been following the course of the litigation and related events since 1979. During January, five judges began hearing a series of non-jury trials in Philadelphia, where more than fifteen hundred asbestos-disease cases were clogging the courts. (Under the non-jury program, either side in a case could ask for a trial de novo if a judge's verdict was not to its liking.) In February, a lawsuit involving a maintenance supervisor named Carl Hardy, who had worked at a chemical plant in Virginia and had died of mesothelioma at the age of fifty-four, was settled for nearly half a million dollars with Eagle-Picher, GAF, and Pittsburgh Corning. The circumstances were highly unusual: Hardy's wife and son, who was a student at the University of Virginia Medical School, had agreed to have Hardy exhumed and re-autopsied in order to refute the contention of Dr. Harry B. Demopoulos, a pathologist at New York University, who had testified for the defense that Hardy might have died of an undiagnosed tumor of the thyroid. The procedure confirmed an original post-mortem finding of mesothelioma. Meanwhile, in Florida, attorneys for a man who had developed lung cancer after working in a lumberyard, where he sawed asbestos-cement board made by the National Gypsum Company, of Dallas, settled his claim with the corporation for a hundred and twenty-five thousand dollars.

During the first week of March, the seventeen plaintiff attorneys on the Asbestos-Related Litigants Committee met at Hilton Head Island, South Carolina, and agreed that their asking price for settling the seventeen thousand asbestos-disease lawsuits that were pending against Manville would be eight hundred and fifty million dollars—an average of about fifty thousand dollars a case. A few days earlier, Manville's attorneys had distributed to the committees an outline for a reorganization plan that the company wanted to discuss at a meeting in New York on March 7th. The plan proposed that all the pending and future cases of those plaintiffs whose disability could be proved to a medical panel be settled for an average of thirteen thousand six hundred dollars. This offer was not only ridiculously low but also unacceptable because it proposed to place a dollar value on future asbestos-disease claims and to take away an injured worker's right to his day in court and a trial by jury. As a result, the plaintiff attorneys boycotted the March 7th meeting. Their determination not to barter away the rights of future victims of asbestos disease received a powerful stimulus on March 25th, when United States District Court Judge William T. Hart refused UNR's request to appoint a representative for future but unknown asbestos claimants; he said that any such plan would be subject to reversal on the ground of due process, and declared that it was up to Congress to create a solution to the problem of how to deal with future asbestos-disease plaintiffs.

JUDGE HART'S ruling put increased pressure on Manville to come up with an acceptable reorganization plan, but because the company insisted on shielding a considerable portion of its assets from future asbestos-disease claims its proposals were rejected by the plaintiff attorneys. Meanwhile, the plaintiff attorneys had begun taking the depositions of Manville directors and other officials of the company to determine the circumstances surrounding the company's Chapter 11 petition. By far the most extraordinary testimony was given by John McKinney, Manville's chairman and chief executive officer, who was deposed on April 20th and 21st at the downtown office of Davis Polk & Wardwell. During the morning and early afternoon of the first day, McKinney mostly answered questions about Manville's litigation strategy and the sequence of events that led to its bankruptcy filing. Late that afternoon, however, Stanley Levy took over the questioning, and it was then that McKinney made his dramatic disclosure. Levy asked McKinney about his efforts to generate congressional support for an asbestos-compensation bill. McKinney acknowledged that he had talked with a number of representatives and senators about Manville's legal problems, and that company officials had recommended specific language for Representative Millicent Fenwick's asbestos-health-hazards-compensation bill. He also said that he had spoken with Senator Gary Hart about the asbestos problem, and that Manville's Washington lobbyists had conferred with Hart's aides concerning the asbestos-health-hazards-compensation bill that Hart had introduced in the Senate in 1980 and 1981.

Levy asked McKinney if he had contributed money to Fenwick and to Hart.

"Not to Congresswoman Fenwick," McKinney replied. "I did to Senator Hart."

"Was there an effort made by the company to have senior management make contributions to Congresswoman Fenwick and to Senator Hart?"

"No," McKinney said. "Only to the PAC."

"Which PAC are we talking about?" Levy asked.

"Now called the Manville PAC," McKinney told him.

"Who are the trustees or people who were responsible for administering the PAC?"

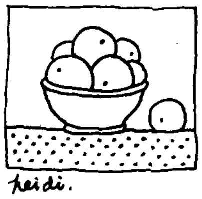
"I have forgotten who they are," McKinney said. "There are five of them."

"You don't know any of the five?" Levy asked incredulously.

"I think Hart was on it," McKinney answered. "And Mr. Linke, and Miss De Coursey." Both were vice-presidents of Manville. "Probably somebody from finance, I would hope. I don't know of anyone—I have forgotten who is on it."

Thus, late in the day—perhaps fatigued after almost seven hours of sworn testimony—did McKinney link Senator Hart with the Manville political-action committee, and then try to retract his statement by claiming that he had suddenly forgotten whether a United States senator and two of his own vice-presidents were members of it. But Levy, who was preoccupied with the bankruptcy filing, returned to the main subject of the deposition without following up on McKinney's startling disclosure.

In the end, Hart was never confronted by either the press or Mondale with the question of his Manville PAC connection. He claimed that by proposing a bill that would have taken away the legal right of sick and disabled asbestos workers to sue Johns-Manville and other asbestos-insulation manufacturers for damages, in return for slightly improved benefits in state-administered compensation systems in which they were already entitled to participate, he had been only trying to insure that deserving workers would be fairly compensated for their injuries. An examination of the legal record shows, however, that during April of 1983, when McKinney disclosed Hart's connection with the Manville PAC, workers suffering from asbestosis won verdicts averaging well over a hundred thousand dollars apiece against Manville's co-defendants in twenty-four of twenty-five non-jury trials that were held in Philadelphia's Court of Common Pleas. Under Hart's proposed bill, these plaintiffs would not have been able to bring suit against the asbestos manufacturers to begin with.



EARLY in May, Manville's bankruptcy lawyers presented Judge Lifland with a term sheet outlining the basic elements of a reorganization plan that had already been rejected by the plaintiff attorneys. Under the plan, Manville proposed to sell off most of its asbestos operations and to relegate its asbestos-disease liability to a company called M1. It proposed to spin off its non-asbestos operations—they included the fibre-glass, forest-products, and roofing divisions, which had produced about two-thirds of Manville's 1982 revenues of a billion eight hundred million dollars—into a liability-free corporation called M2, whose assets would not be subject to present or future asbestos-disease claims. According to the plan, asbestos litigants would be asked to vote on whether they wanted to be compensated through a no-fault system or through arbitration hearings in bankruptcy court in which no punitive damages would be allowed. The plan anticipated that its provisions would be binding on future as well as present claimants.

In June, the members of the Asbestos-Related Litigants Committee turned down the Manville proposal, voting nine to six against discussing *any plan that included the future* claimants—or "futures," as they came to be called—on the ground that it would deprive those claimants of due process. By the same margin, they voted to turn down Manville's M1-M2 scheme. Those who were against it questioned the legality of transferring assets without transferring liabilities. Some of them quoted the dissenting opinion in a 1975 California Court of Appeals decision, in Ortiz v. South Bend Lathe, that adopted the theory that a transferee company was liable for torts arising from its predecessor's activities, declaring that "liability attaches to the business like fleas to a dog, where it remains embedded regardless of changes in ownership of the business."

By the end of May, another serious sticking point had developed, in talks that were being conducted between Manville and a newly appointed six-man negotiating committee, made up of Levy, Locks, Baron, Motley, Henderson, and Aaron Simon, a Los Angeles asbestos-plaintiff attorney. This time, the problem centered on the amount of money that would have to be put together to settle the twenty thousand claims that were by then pending against the company. The plaintiff attorneys had dropped their asking price from eight hundred and fifty million dollars to seven hundred million dollars, but Manville was holding at four hundred million, which came out to an average of about twenty thousand dollars a case. According to a company spokesman, the offer was a reasonable one, because six thousand of the twenty thousand cases pending involved no present disability. The plaintiff attorneys were quick to point out that twenty thousand dollars per case was far below the average amount of the damage awards that were being meted out by juries and judges or being reached in out-of-court settlements. (Even Manville's own LAG report had acknowledged that dispositions to asbestos plaintiffs during the six months before the company filed under Chapter 11 were averaging almost thirty thousand dollars a case, excluding defense costs.) Exasperated with both sides, Judge Lifland put pressure on the plaintiff lawyers to soften their demands and directed that McKinney and the chief executive officers of the co-defendant companies become directly involved in the negotiations.

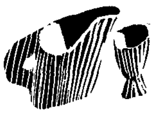
As a result, the talks dragged on through the rest of the spring and into summer with almost no progress being made. Toward the end of July, however, some excitement was created by researchers for the Institute for Civil Justice of the Rand Corporation—a company whose research is supported by the contributions of industry, including several asbestos manufacturers and their insurance carriers—who issued a report of an investigation they had made into the cost of asbestos litigation. The Rand people said that a billion dollars had been spent on asbestos lawsuits from the early nineteen-seventies through the end of 1982, and that six hundred and sixty-one million dollars had been paid by defendant manufacturers and their insurance carriers to close out asbestos-disease claims that either had gone to trial or had been settled out of court. According to the Rand researchers, only thirty-seven per cent of that amount had actually gone to compensate the plaintiffs. They went on to report that each asbestos case cost the defendant manufacturers and their insurers about ninety-five thousand dollars; that thirty-five thousand of this went to pay for the defense lawyers' fees and expenses; and that out of the sixty thousand that remained the average plaintiff paid twenty-five thousand dollars for his attorney fees and expenses, and so was left with an average net compensation of thirty-five thousand dollars.

Manville seized on the Rand report to make the point that the difference between its offer of four hundred million dollars to settle the pending asbestos lawsuits and the seven hundred million that was being demanded by the plaintiff attorneys amounted to approximately the plaintiff attorneys' contingent fees and expenses. The Rand report also provided the basis for another Washington *Post* editorial claiming that the tort system was an inefficient way of compensating asbestos victims, and calling on Congress to step in and bail out the defendant asbestos manufacturers. Nowhere did the newspaper point out that far and away the greatest expenses in the asbestos litigation were defense costs resulting from the insistence of each defendant manufacturer to be represented by his own set of lawyers, and the refusal of the defendants to agree to the use of prior testimony. Nor did the *Post* point out that much of the outlay by both sides had been made necessary by the insistence of the defendant manufacturers and their insurers on relitigating the state-of-the-art and other liability issues in practically each and every case, as well as by their insistence on relitigating in virtually every lawsuit since the early nineteen-seventies the medical issue of whether or not asbestos inhalation could cause lung disease, and thus forcing a situation in which high-priced expert witnesses had to be called and refuted in case after case, including most of the cases that were settled before going to trial. Nor did the newspaper mention that when asbestos victims were allowed to use the supposedly inefficient tort system it appeared to be compensating them at a splendid rate—especially in Rand's home state of California, where a jury in Oakland had recently awarded a total of eight hundred and sixty-five thousand dollars in compensatory damages and a million eight hundred thousand dollars in punitive damages to two asbestotic workers who had been employed in an asbestos factory and the widow of a third.

ON August 25th, the day before the first anniversary of the filing of Manville's Chapter 11 petition, the *Times* ran a front-page story by Thomas J. Lueck under the headline "MANVILLE THRIVING IN BANKRUPTCY, SHIELDED FROM ASBESTOS LAWSUITS." Lueck said that the company's business had surged since it filed for bankruptcy reorganization, and that its portfolio of securities was worth two hundred and fifteen million dollars—more than twelve times what it had been worth a year earlier. This news was too much for Dr. Selikoff, and he fired off a letter to the *Times*, which appeared on September 10th. Noting that the bankruptcy judge had given Manville six extensions for filing its reorganization plan, Selikoff took it upon himself to inform Lifland that an immense human tragedy was being played out behind the proceedings he was presiding over. The letter read, in part:

> Death and disease are not held in abeyance by legal writ. The victims are barred from applying for the financial help needed to ease their difficulties. Men are dying of mesothelioma or lung cancer, unable to seek medical care to ease their last days, and others are not able to afford the medical surveillance that could save their lives. Still others, short of breath, with asbestos lung scarring and no longer able to make a living, can't keep their families together.
>
> It is hard to appreciate the terror of a woman whose husband has been sent home from a hospital with a tracheostomy tube in his throat, unable to afford a nurse, resuscitating him at each emergency, until the final episode. Or widows—of shipyard workers, steam-locomotive repairmen, construction workers, power and utility plant personnel and other craftsmen—having used slowly accumulated retirement dollars for the illness brought on by asbestos.
>
> Some have written me that they come close to begging in the streets. Others get along by visiting the children in rotation. Often, when I write a widow for scientific information, the reply comes from a trailer park: the house sold. After a lifetime of hard work, to die and to have his widow live in penury is a bitter final reward for a worker.
>
> The inexorable progress of asbestos disease continues, while the lawyerly discussions proceed. The court cannot provide a legal extension of the lives being endangered or lost.

The human suffering and deprivation described by Selikoff did not, however, appear to loom large in the deliberations of Judge Lifland, who had not put any real pressure on Manville during the year since it had filed for reorganization, or, for that matter, in the deliberations of the various bankruptcy lawyers, investment bankers, and consultants who had been retained by Manville and the creditors' committees for the bankruptcy proceedings, and had submitted bills for their services totalling several million dollars. Indeed, the talks between Manville and its creditors soon became stalled again—this time over the issue of jury trials, which the company wished to eliminate in favor of a no-fault arbitration system that would be binding on future as well as present plaintiffs. Although the reason for Manville's aversion to the tort system seemed to elude the Washington *Post*, it would have been apparent to almost anyone who was willing to examine the compensatory damages being awarded to asbestos victims who were able to bring suit against Manville's co-defendants, and compare them with the relatively meagre compensation that Manville was proposing to give. In Seattle, for example, the widow of an asbestos insulator who had died of mesothelioma at the age of fifty-four had recently negotiated a five-hundred-and-seventy-one-thousand-dollar out-of-court settlement with twenty co-defendant asbestos manufacturers; in Nashville, a jury awarded seven hundred and fifty thousand dollars in compensatory damages to the estate of a Tennessee pipe fitter who had developed asbestosis and lung cancer, and had died at the age of fifty-five; and in Philadelphia a judge in one of the non-jury trials that were taking place in the Court of Common Pleas awarded seven hundred and twenty-five thousand dollars to the widow of a pipe fitter who had died of mesothelioma.



While the asbestos litigation against the co-defendants was picking up in August and September, the negotiations with Manville remained at a virtual standstill as Judge Lifland granted the company still another extension for filing its reorganization plan; this one, for thirty days, was the seventh since the proceedings began. Before the extension expired, in the middle of October, Earl Parker announced that Manville intended to file a variation of the M1-M2 plan it had proposed in May. Parker went on to say that Manville would ask the bankruptcy court to regulate the "exorbitant contingent fee arrangements" that existed between the plaintiff attorneys and their clients.

By now, it was clear that Manville would not propose a plan that the attorneys for the asbestos-disease claimants could accept, and that the present round of settlement talks was bound to fail, and for this reason Robert J. Rosenberg, the bankruptcy attorney for the Committee of Asbestos-Related Litigants, and the members of the committee prepared to launch a legal assault on the company's Chapter 11 petition, on the ground that it was fraudulent. Their chief weapon was a hundred-and-three-page affidavit in support of a motion to dismiss Manville's petition for bankruptcy reorganization which was submitted to Judge Lifland on November 14th by Stanley Levy, who had pieced together a detailed scenario alleging that during 1981 and 1982 Manville's managers had fraudulently prepared the way for the company to file for bankruptcy reorganization. Levy accused Manville officials of manipulating its consultants into making improper projections of the incidence of asbestos disease and asbestos-litigation liability, and of deceiving some of the members of the company's own board of directors. He placed special emphasis on the concealment from the outside directors of the letter that Pundsack, the company's former president and chief operating officer, had written, bitterly protesting the impending bankruptcy filing, on the ground that it was "wrong for the stockholders, wrong for the employees, wrong for our creditors, wrong for our customers, and wrong for our suppliers." For its part, Manville responded to Levy's charges by claiming that he had cited no evidence to support most of them, including his allegation that Pundsack's letter had been concealed.

As for Manville's long-awaited reorganization plan, which was filed with the bankruptcy court on November 21st, it proposed to set up a procedure through which each claimant's physical impairment would be evaluated on a sliding scale, on the basis of the claimant's age, degree of disability, personal earnings, and number of dependents, but that totally eliminated any recovery for pain and suffering, or for loss of services or consortium. It offered to pay fifty thousand dollars to a claimant suffering from mesothelioma; from fifteen hundred to forty-five thousand dollars for lung and other cancers, depending on the extent to which asbestos was judged responsible for their development; and from fifteen hundred to forty thousand dollars for asbestosis and other non-malignant impairment. As for future asbestos-disease victims whose injuries would not be diagnosable at the time such a plan might be confirmed, they would be enjoined from recovering any damages not only from M2 (Manville's proposed liability-free operating arm) but even from M1—the non-operating shell company through which Manville proposed to deal with its asbestos-disease liability—unless they first submitted to a still unspecified procedure for liquidating their claims. In addition, it called on Judge Lifland "to declare null, void, and unenforceable all prior fee agreements between asbestos claimants and their counsel, and that the Court determine reasonable fees for such counsel." In an accompanying affidavit, Dennis Markusson cited the Rand report, which said that approximately a hundred and sixty-four million, or forty-one per cent, of the four hundred million dollars that had been paid out to asbestos claimants by defendant manufacturers and their insurance carriers had been taken as contingent fees and expenses by the plaintiff lawyers. (Markusson failed to mention that defense attorneys hired by the asbestos manufacturers and their insurers had been paid about two hundred and thirty-six million dollars in legal fees and costs—a sum approximately equal to the total compensation received by the plaintiffs.)

The plaintiff attorneys wasted little time in submitting a motion that called on Judge Lifland to reduce the salaries of the company's chief executive officers and the fees of its board of directors. As for Manville's plan of reorganization, they charged that it would destroy the rights of both the present and the future claimants and deprive them of due process. By far the most effective rejoinder to Manville's belated reorganization plan, however, was being conducted within the tort system, as judges and juries all across the nation heard evidence in cases brought by victims of asbestos disease or their survivors. In Philadelphia, four former shipyard workers suffering from asbestosis (Manville proposed to compensate sufferers from this incurable and often fatal lung disease with a sum ranging from fifteen hundred to forty thousand dollars) won verdicts ranging from a hundred thousand to a hundred and twenty-five thousand dollars each; four workers who had developed pleural thickening (a nondisabling condition that may be a precursor of more serious disease, for which Manville had proposed to pay a thousand dollars) won damages of fifty thousand dollars apiece; and the widow of a shipyard worker who had died of lung cancer (for which the Manville plan would pay from fifteen hundred to forty-five thousand dollars) was awarded five hundred and fifty thousand dollars. In Marshall, Texas, fourteen asbestos manufacturers settled twenty-eight asbestos-disease cases for three million four hundred and seventy thousand dollars, which came to almost a hundred and twenty-four thousand dollars a case, and in Dallas the widow of a former shipyard worker who had died of mesothelioma reached an out-of-court settlement with six asbestos-insulation manufacturers for four hundred and ninety-five thousand dollars.

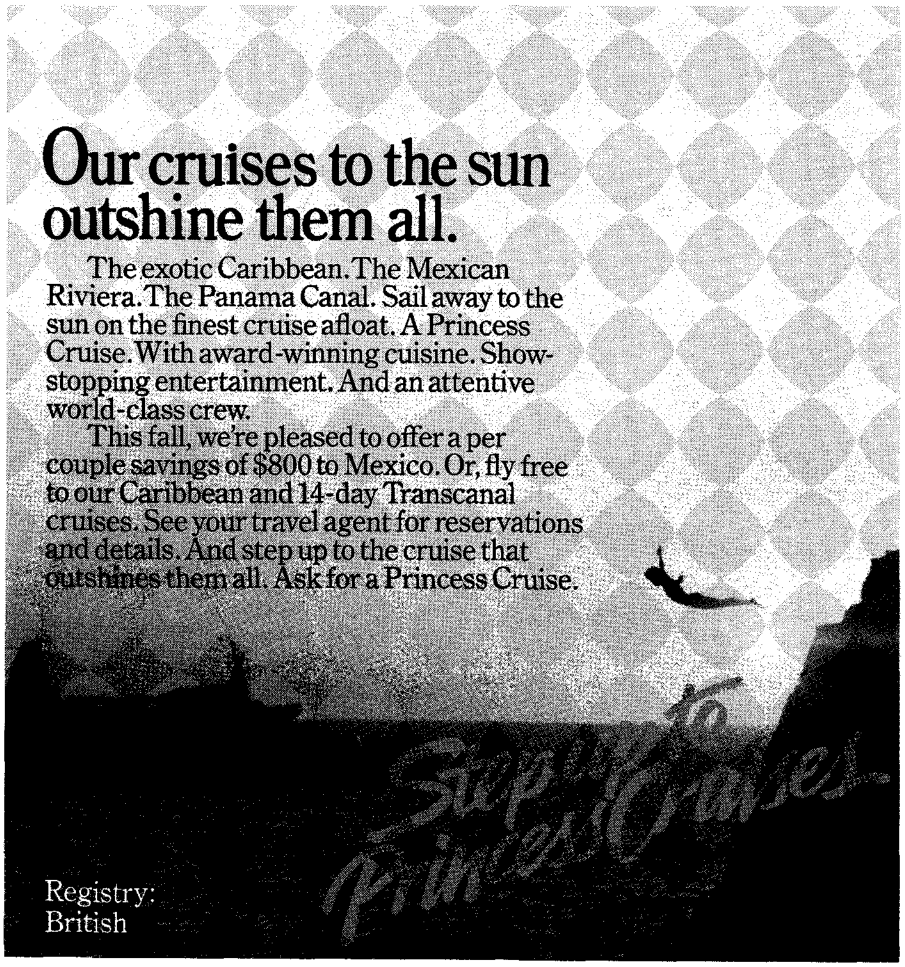
During November, in Virginia, the widows of four former Norfolk Naval Shipyard workers who had died of either lung cancer or mesothelioma reached out-of-court settlements that ranged from more than half a million to nearly a million dollars, and in Dade County, Florida, a jury returned a half-million-dollar verdict against Eagle-Picher in a case involving an insulation worker who had developed pleural thickening, though the award was subsequently reduced to three hundred thousand dollars. In December, in the first asbestos case ever tried in Arkansas a federal-court jury awarded two hundred and fifty thousand dollars to a former insulator who had developed asbestosis; in Cleveland, the case of a former insulator who had died of lung cancer was settled for two hundred and sixty-four thousand dollars; and in Baltimore a wrongful-death action brought by relatives of an asbestos worker who had died of lung cancer was settled for more than three hundred thousand dollars. Meanwhile, in the Philadelphia Court of Common Pleas the estate and the widow of a shipyard worker who had died of lung cancer received a total of more than nine hundred and ten thousand dollars—the largest non-jury verdict ever made by that court in an asbestos case.

Clearly, in spite of the claims of Manville, and contrary to the assertions of the editorial writers of the Washington *Post*, who had apparently accepted industry statements without bothering to make an independent check of the legal record, the tort system in 1983 continued not only to dispense justice to diseased asbestos workers and their survivors but, equally important, to serve as a forum in which evidence of the culpability of asbestos manufacturers and of the hardship and suffering of individual claimants could be presented for assessment and action by judges and juries.

THE animosity that had been building between the plaintiff attorneys and Manville during the sixteen months since the company filed for reorganization reached a climax on January 5, 1984, when Judge Lifland heard arguments on motions to dismiss Manville's Chapter 11 petition. At the hearing, Richard Brewster, of Moses & Singer, accused Manville of rigging the data on which it had based its projection of the number of asbestos-disease claims that would be filed against it, and called on Judge Lifland to terminate its bankruptcy petition, saying that "the integrity of the entire bankruptcy process is abused and cheapened." Gordon Harriss, of Davis Polk & Wardwell, told Judge Lifland that Brewster's statements were not sustained by any evidence, and Michael Crames declared that Manville "stands naked before the world," and that the Asbestos Committee was seeking to force an inflated settlement of the asbestos-disease claims.

On January 23rd, Judge Lifland handed down a forty-nine-page decision in which he denied the various motions to dismiss Manville from bankruptcy, saying that there was no question that Manville was eligible to be a debtor under the statutory requirements of the Bankruptcy Code. "It is only now that negotiations have become seemingly deadlocked that the Asbestos Committee has reverted to its original position of attacking the filing," Lifland declared. "If there was merit in the motion to dismiss on grounds of lack of good faith, it could have been fervently pressed a year ago instead of tolerating this alleged misuse of the courts." (Lifland did not acknowledge that he had played a leading role in the delay, for in order to facilitate a settlement of the asbestos dispute he had brought considerable pressure to bear on the plaintiff attorneys for a year not to litigate their motions to dismiss Manville's bankruptcy petition.) Lifland went on to say that by demanding nearly a billion dollars to settle the sixteen thousand-odd pending asbestos-disease claims the Asbestos Committee had belied its own contention that Manville was not financially pressed. He also raised the prospect of still another liability, of anywhere from five hundred million to nearly a billion and a half dollars, for Manville when he mentioned the numerous individual and class-action lawsuits for property damage that had been filed against the company by, or in behalf of, virtually every public-school district and private school in the United States, as a result of the use of asbestos-containing products, often manufactured by Manville, in the ceilings, walls, piping, and ductwork of school buildings across the nation.

Along with his denial of the motions to dismiss Manville from bankruptcy, Judge Lifland handed down another far-reaching decision when he granted a motion by the Keene Corporation to appoint a legal representative for Manville's future asbestos-disease claimants. "From the inception of this case, it has been obvious to all concerned that the very purpose of the initiation of these proceedings is to deal in some fashion with claimants exposed to the ravages of asbestos dust



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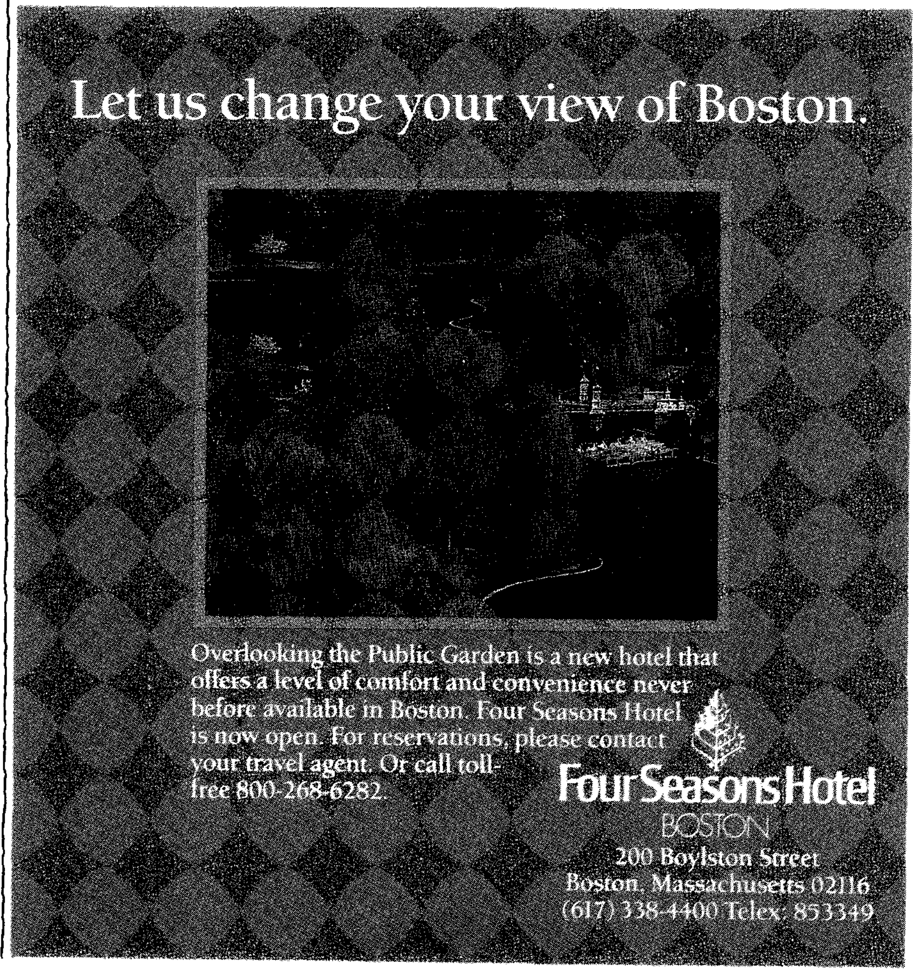

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who have not as of the filing date manifested symptoms of asbestos disease," he declared. "Indeed, but for this continually evolving, albeit amorphous constituency, it is clear that an otherwise economically robust Manville would not have commenced these reorganization proceedings." Lifland then took note of the fact that in responding to a similar motion filed by UNR Judge William T. Hart had held that future asbestos-disease claims were not dischargeable in bankruptcy, and that Hart's ruling had just been upheld by the Seventh Circuit. He pointed out, however, that his appointment of a legal representative for the future claimants had no direct bearing on whether or not their claims could be discharged in bankruptcy, and was intended only to address the undeniable fact that Manville's reorganization was of keen interest to these claimants, whom he described as "parties of interest."

As was to be expected, the plaintiff attorneys reacted to Judge Lifland's denial of their motion to dismiss by announcing that they would appeal it, while the Manville people treated it as a major victory. "The judge's rejection of the frivolous contention of the plaintiff attorneys vindicates Manville's position," said McKinney, who predicted confirmation of Manville's reorganization plan. Nevertheless, rumor soon began circulating that some of Manville's trade creditors were once again studying the merits of liquidating the company, and the *Wall Street Journal* quoted John Jamison—Dean of the College of William and Mary's School of Business Administration, and the representative on the commercial and trade creditors' committee of one of Manville's creditors, Goldman, Sachs & Company—as saying, "As time goes by, I think you have to more seriously consider the liquidation scenario."

Jamison may well have been using the *Journal* as a vehicle to escalate the war of nerves that had been going on between Manville and its creditors for more than a year, because several weeks earlier he had outlined a plan to break the deadlocked negotiations, and his plan was then being given consideration by all the parties in the dispute. At the heart of the plan was a proposal to establish a settlement trust fund for asbestos-disease victims, which would be directed by independent trustees, who would be given the responsibility of handling asbestos-disease claims and would be provided with a national claims facility. This trust fund would

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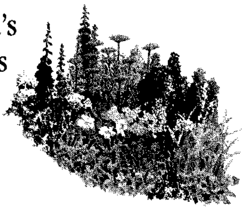
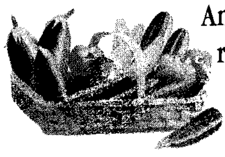

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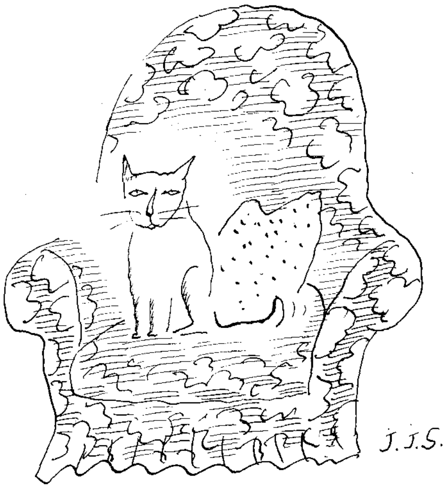
include an unspecified amount of cash from Manville; all of its product-liability insurance, which was estimated to be at least six hundred million dollars; forty million dollars from the sale of its Canadian asbestos mines; and some thirty million dollars from its pension plan, which was overfunded. In addition, the independent trustees would hold debentures that could be converted into a percentage (somewhere between sixty-six and two-thirds and seventy-five per cent) of the company's stock in the event that asbestos-disease claims exceeded the cash assets that had been made available. This was a crucially important part of Jamison's plan, because, depending on the percentage of stock involved, Manville's creditors could be in a position to take control of the company if circumstances warranted. Another very important aspect of Jamison's plan was that if a claimant was dissatisfied with the amount he received from the claims facility he would have the right to a jury trial.

In return for these concessions by Manville, Jamison asked the asbestos creditors to agree in principle that all present and future claimants should first seek redress through the settlement trust fund. Finally, they were asked to agree that Manville should be allowed to operate as an independent company, whose assets would be separate from the trust fund. This meant that Manville would be immune from future asbestos-disease claims—or, as the saying among the negotiators went, "bulletproof"—while the plaintiff attorneys were given the assurance that if Manville's financial behavior and performance proved to be unsatisfactory they could gain control of the company and, if necessary, liquidate it.

On January 27th, the members of the Asbestos Litigation Group held a meeting in Key West and, after hearing Jamison present his plan in outline, voted overwhelmingly to explore it at length, in spite of reservations on the part of some members that it allowed Manville to remain within the confines and protection of a bankruptcy petition that had been filed in bad faith. Thus, the Key West meeting opened the door to a resumption of negotiations, and Jamison discussed his plan with people at Manville, from whom he received some qualified support.

ON February 6, 1984, the *Times* published a lead editorial entitled "A Glimmer in the Asbestos Gloom," which began by acknowledging that a quarter of a million people were likely to die early because of asbestos disease. The editorial then said that the courts were clogged with twenty-four thousand claims that by this time had been filed by asbestos victims, and that this situation had produced paralysis rather than "a prompt and equitable system of compensation." According to the *Times*, the first step toward creating such a system had been Judge Lifland's decision to allow Manville to stay within Chapter 11; the second step would be for "insurance companies to cease wrangling and start paying up;" and the third step would be for the government "to decide its duty to the thousands heavily exposed to asbestos in the shipyards of World War II."

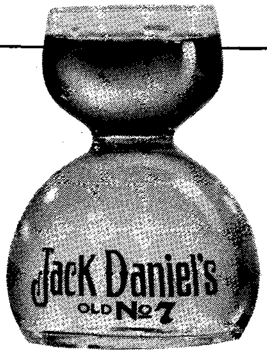
Thus did the *Times* come out in favor of Manville's long-sought goal of getting the American taxpayer to foot a large part of the bill for its asbestos-disease liability—a move that had found little support in Congress and almost none in the nation's courts. In an attempt to make this position palatable to its readers, the *Times* portrayed Manville as a company that had not filed for bankruptcy reorganization to evade responsibility, and described the plaintiff attorneys as once the saviors of asbestos victims but now their greedy enemies. "The attorneys who represented the first asbestos claimants built a strong case against the manufacturers," the *Times* said. (The fact was, of course, that the strong case took nearly a decade of painstaking work and discovery to construct.) The newspaper then acknowledged that, as an appeals court in New Jersey had declared in upholding a punitive-damage award against Manville, the company had withheld information about the asbestos hazard from workers in the nineteen-thirties, and that it had "made a conscious, cold-blooded business decision, in utter flagrant disregard of the rights of others, to take no protective or remedial action."



Without describing the relatively paltry payments that Manville had proposed to make to the victims of asbestos disease, the *Times* criticized the plaintiff attorneys for trying to preserve their clients' right to a jury trial, suggesting that the lawyers were taking this stand because they stood to lose their contingent fees. The *Times* then stated the case against the judicial process in much the same language that had been used by the spokesmen for Manville and by the editorial writers for the Washington *Post*. "Trials produce long delays and haphazard results, and legal fees bite heavily into any settlement," the newspaper said, and it went on to support this contention by citing the Rand report.

As it happened, the *Times* was relying on data that were more than six months old. According to a second Rand study that was completed the following month, the average compensation paid for all asbestos-disease claims that began trial between January 1, 1980, and August 26, 1982, was two hundred and fifty-five thousand dollars, and the average total compensation of the fifty-three per cent of the plaintiffs who won their trials was three hundred and eighty-eight thousand dollars. Small wonder that plaintiff lawyers whose ethical duty was to their injured clients were loath to advise their clients to give up their right to a jury trial!

Later in February, Chief Justice Warren E. Burger, in his annual State of the Judiciary address at the midyear meeting of the American Bar Association, in Las Vegas, complained that there was too much tort litigation in the nation, and urged the legal profession to explore new ways of resolving disputes other than going to trial. Two years earlier, in a similar speech, he had advocated moving some lawsuits from the tort system to what he called "administrative processes, like workmen's compensation." Burger apparently had little idea of just how grossly flawed the workmen's-compensation system had proved to be. He could have been enlightened by a study—performed by William G. Johnson, a professor of economics and a senior research associate of the Health Studies Program at Syracuse University's Maxwell School, together with Edward Heler, an assistant professor at the School of Public and Environmental Affairs at Indiana University North-



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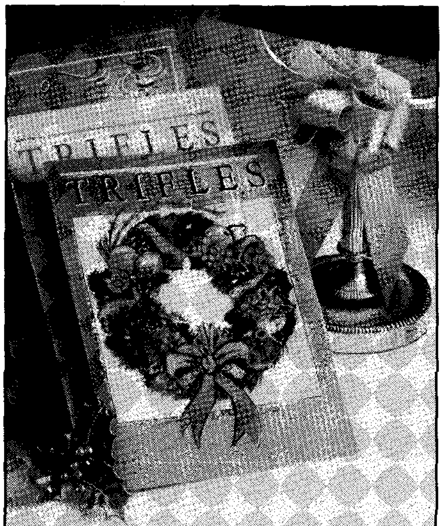

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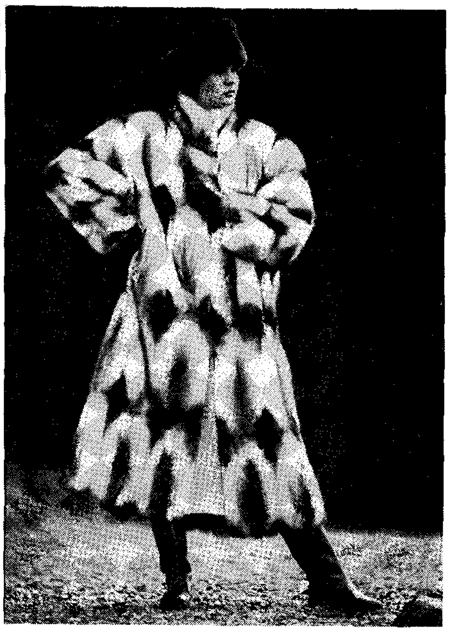
west, in Gary, Indiana—of the compensation paid during 1979 to the widows of two hundred and forty-nine men who had died from occupational exposure to asbestos. Johnson and Heler found the workmen's-compensation payments deplorably inadequate, replacing only thirty-six per cent of the losses of those widows for whom it was the only source of income. They also found that those widows who had succeeded in tort suits received by far the most nearly adequate compensation.

In 1979, juries were beginning to hear the newly uncovered evidence of the coverup that had been engineered by the asbestos industry. As a result, there was a dramatic rise that year in damage awards and out-of-court settlements in asbestos-disease cases, and during the nineteen-eighties the tort system began to provide such meaningful compensation to the survivors of dead asbestos workers that relatively few of them bothered to apply for workmen's-compensation benefits. Yet, following Manville's filing for bankruptcy reorganization, virtually everyone involved in the asbestos problem (with the exception of asbestos-disease victims and their attorneys, whom the *Times* had accused of greed and bias) sought to replace the tort system with some new variation of workmen's compensation that would pay considerably less to the victims and their survivors than what they could expect to win in court. These efforts to circumvent the tort system were usually characterized as attempts to find alternative methods of handling asbestos-disease claims, and those involved in them often doubted the ability of the judicial system to cope with what they called the "asbestos-litigation crisis," and invariably cited the need to reduce the so-called logjam of asbestos suits in the nation's courts and to cut the overhead costs of resolving these cases. However, the idea that the nation's court system was not equipped to handle the asbestos litigation was challenged by a number of leading jurists and legal scholars. Among the latter is Thomas E. Willging, of the Federal Judicial Center—an organization set up by Congress in 1967 to conduct and stimulate research on matters of judicial administration—who published a study of asbestos-case management in 1985, in which he concluded that "asbestos cases constitute a relatively small percentage of the civil caseloads of state and federal courts," that they have become "rela-



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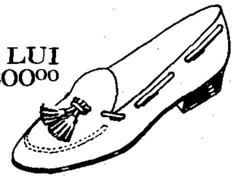

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tively routine," and that they can be handled through active case management, including case consolidation and standardization of pretrial procedures. Meanwhile, during the late winter and early spring of 1984, judges and jurors of the supposedly inefficient tort system continued to refuse to allow the asbestos industry and its insurance carriers to compensate at bargain rates for the loss of lungs and life. In February, a Knoxville jury awarded half a million dollars to the widow of a plasterer who had died of mesothelioma after spraying acoustical plaster containing asbestos in school buildings. Of the half million, two hundred thousand was in punitive damages—the first such punitive award in an asbestos case against National Gypsum. Also in February, a jury in Detroit awarded four hundred thousand dollars to an insulator who had developed asbestosis, and a Pennsylvania judge ordered three suppliers of asbestos materials who had refused to settle out of court to pay half a million dollars in punitive damages to the widow of an asbestos insulator who had died of mesothelioma. During March, in Philadelphia, one judge awarded a million and a half dollars to the estate and the widow of a former shipyard electrician who had died of mesothelioma at the age of sixty-six; a second judge awarded nine hundred thousand dollars to the widow and the estate of an upholsterer who had sewn asbestos cloth at a shipyard during the nineteen-forties and had died of mesothelioma at the age of fifty-six; a third judge awarded six hundred and seventy-three thousand dollars to the estate of a former shipyard electrician who had died of mesothelioma at the age of seventy-two; and the same judge awarded three hundred and twenty-one thousand dollars to the widow of a shipyard electrician who had died of lung cancer at the age of fifty-five. In Seattle, where six hundred asbestos-disease lawsuits had been filed, the widow of a former worker at the Puget Sound Naval Shipyard who had died of asbestos disease settled her case against nine insulation manufacturers for two hundred and thirty-eight thousand seven hundred and fifty dollars, while eight other shipyard workers who were suffering from various asbestos-related ailments accepted a group settlement of six hundred and twenty-five thousand dollars.

Such awards and settlements undoubtedly acted as a spur to the Wellington Group talks that were taking place among some of the major asbestos-insurance carriers—Travelers, Aetna, Hartford, CIGNA, Continental, Fireman's Fund, and Lloyd's among them—who had been bickering for months over who was on the risk (that is, liable to provide coverage). They were also a goad to some sixteen major co-defendant asbestos manufacturers who had been squabbling over their respective national market-share percentages in an effort to establish how much each of them should be assessed for settlements and awards. In May, it was announced that the two groups had finally agreed to establish a joint nonprofit asbestos-claims facility to settle asbestos claims out of court, and that they had reached tentative agreement on sharing the cost of doing so from a pool of money that was said to amount to some seven billion dollars. Many observers hailed the agreement as a way of breaking the asbestos-litigation logjam, because it provided that participation in the claims facility would be voluntary, and it preserved a plaintiff's right to have a jury trial. However, serious misgivings about the Wellington plan were entertained by a number of leading plaintiff attorneys, who worried that defendant manufacturers might refuse to negotiate with plaintiffs who chose not to use the claims facility, and pointed out that the Wellington plan contained no provision to compensate asbestos plaintiffs who had developed pleural thickening.

MEANWHILE, on the first day of spring secret negotiations had resumed between Manville and attorneys representing unsecured creditors, with the Jamison proposal as a structure for their discussion. To begin with, the question of due process for future claimants loomed large in the talks, because both sides were painfully aware that they could spend many more months at the bargaining table only to have future plaintiffs challenge the constitutionality of any settlement they might devise, and, if successful, proceed to litigation against Manville. Soon, however, having been assured that both present and future claimants would have the ultimate right to have their claims determined by a jury, the members of the Asbestos Litigants Committee backed away from their previous insistence upon strict due process for the futures, in the hope of obtaining progress in the negotiations. In the middle of May, at a meeting at the Halloran House, in New York, they voted eighteen to three to authorize their negotiating committee to discuss with Manville a settlement plan that proposed to treat future claimants in the same way that present claimants would be treated. In effect, the members of the committee were able to persuade themselves by a large majority that their primary duty lay with the present claimants, who were their clients, and that they should make no attempt to involve themselves in the interests of future claimants other than to reiterate their previous position that the rights of the futures should not be discharged in bankruptcy proceedings. This conclusion enabled them to agree to a proposal whereby Judge Lifland would grant an injunction that future claims could be brought only against the asbestos-compensation trust fund that was to be set up. The idea was that the constitutionality of discharging future claims in Chapter 11 could then be tested in the courts and decided once and for all on appeal—though most of the plaintiff attorneys professed to be convinced that no matter how the issue was decided it could easily be overturned if the day ever came when the trust fund ran dry. The trouble with this rationale was that when all was said and done the fate of future claimants was being left up in the air. Moreover, the precedential issue was simply staggering, for if Manville should be permitted through the simple expediency of a bankruptcy proceeding to deprive people who would develop asbestos disease in the future of their right to a trial by jury what would prevent the chemical industry and other manufacturers of products that cause cancer and latent disease from following this course?

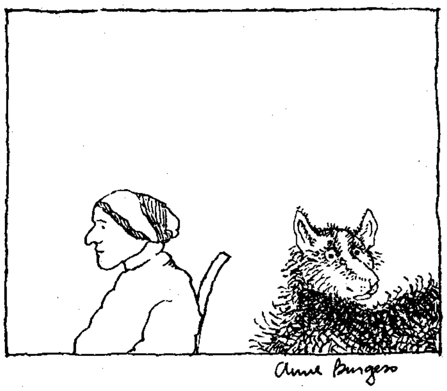
In any event, because of the plaintiff attorneys' change of mind concerning the future claimants the negotiations went better than almost anyone had expected. Indeed, by the end of May

Manville and its creditors, who had been at loggerheads for more than twenty months, seemed close to agreement on the broad outlines of a plan for reorganizing the company. Among other things, Manville agreed to scrap its controversial benefits-payment schedule in favor of a scheme in which an effort would be made by the claimant's attorney and a representative of the trust fund to negotiate a settlement. If this failed, some kind of nonbinding arbitration would be attempted. And if that failed a dissatisfied claimant would have the right to a jury trial. As for the independent trustees, they would be given control of a large percentage of Manville's common stock—the creditors were asking for eighty per cent, Manville was offering sixty-six and two-thirds per cent, and the final figure was the subject of intense bargaining—with the idea that the creditors would be in a position to take over, and even liquidate, the company if the fund was not sufficient to compensate the victims of asbestos disease. In addition to an initial hundred-million-dollar payment by Manville, the trust fund would be financed by annual payments of twenty million dollars over a period of ten to twenty years by Manville's operating arm and a minimum of six hundred million dollars of product-liability insurance that it was expected would be provided by the twenty-seven carriers with which Manville had been in litigation since 1980.

Of course, many problems remained to be solved. The plaintiff lawyers were calling on Manville to pay their clients a hundred thousand dollars for nondisabling pleural thickening, a hundred and fifty thousand dollars for asbestosis, three hundred thousand dollars for lung cancer, and four hundred and fifty thousand dollars for mesothelioma—compensation that was roughly equivalent to what the victims of such diseases were receiving in cases that were going to trial against Manville's co-defendants. It was all very well for them to issue such calls, but the calls were unlikely to be answered; after all, to many observers Manville's chief reason for entering into bankruptcy proceedings to begin with was to allow the company, which had not paid a single penny to any asbestos-disease claimant since the day it filed for reorganization, to settle claims for far less than they were worth in tort litigation.

An additional irony was that even as the bankruptcy system worked to deprive asbestos victims of just compensation it was providing a bonanza of staggering proportions for most of the bankruptcy attorneys who had become involved in it in behalf of Manville. (The expenses of the plaintiff attorneys were being paid, but they were not being reimbursed for the time they spent on bankruptcy matters.) In the year and a half following Manville's Chapter 11 filing, the bankruptcy lawyers had billed the company for more than twenty-seven million dollars in legal fees and expenses. This came to about one and a half million a month—seventy-five per cent of what Manville had been paying in 1982 for defending asbestos lawsuits, which it claimed was one of the costs that drove it to file for bankruptcy reorganization. Between August 26, 1982, and January 30, 1984, Heller, Ehrman, White & McAuliffe, the San Francisco law firm that was handling Manville's insurance litigation, had charged more than six million dollars; Davis Polk & Wardwell, Manville's principal outside counsel, had charged nearly three and a half million dollars; Milbank, Tweed, Hadley & McCloy, the New York firm that represented the company's commercial creditors, had charged Manville nearly a million seven hundred thousand dollars; Moses & Singer had billed the company for slightly more than a million and a half dollars; and Levin & Weintraub (by now Levin & Weintraub & Crames) had charged Manville slightly more than a million three hundred thousand dollars. Small wonder that in an article in the *Times* on June 12th Tamar Lewin, who had been following the bankruptcy proceedings from the beginning, called it "a lawyers' feeding frenzy."

A week or so earlier, the asbestos issue had been introduced into the Democratic primary campaign. This occurred when Walter Mondale made a two-hour stopover in Manville, New Jersey, where he met with a number of asbestos-disease victims and promised that (unlike Hart) he would seek to preserve their right to sue the asbestos manufacturers whose products had made them sick. The meeting received extensive media coverage and gave Mondale's campaign in the New Jersey Democratic primary—a contest he had to win if he was going to avoid a deadlocked convention in July—a much needed lift. By this time, many observers—particularly environmentalists—were wondering why Mondale had waited so long to try to take political advantage of Hart's link to Manville and his sponsorship of an asbestos-compensation bill that would have bailed the asbestos industry out of its legal difficulties. (Mondale had brought the subject up only briefly in a debate with Hart in Philadelphia, and in passing on another occasion in Texas.) As it happened, there were at least two political reasons that could explain Mondale's reluctance to deal with the matter. The first was that some officials of the A.F.L.-C.I.O., which had thrown its support to him even before the primary campaign began, were known to be embarrassed by Haas's espousal of Hart's proposed asbestos bill and reluctant to have it become public knowledge—something that was bound to happen if Mondale made a political issue of it. Second, and more important, perhaps, was the fact that three of Mondale's closest campaign advisers—people with unrestricted access to the candidate—worked for firms that represented either Manville or other asbestos manufacturers. Michael Berman, the Mondale campaign treasurer and trusted colleague from Minnesota, who would be named to help run the Democratic National Committee after the convention, was a registered lobbyist for the H. K. Porter Company, of Pittsburgh, which over the years had acquired several companies that manufactured asbestos products, and a defendant in thousands of asbestos lawsuits. Anne Wexler, a longtime political adviser to Mondale, and a former assistant to the President for public liaison during the Carter-Mondale Administration, who would be named to Geraldine Ferraro's staff after the convention, was the chairman of a Washington consulting firm that had been retained by Manville since July of 1983, at an annual fee of three hundred thousand dollars, to provide lobbying services for proposed and pending legislation affecting the company. And Richard Moe, a senior political adviser to the



Mondale campaign, who had been Mondale's chief of staff during his Vice-Presidency, was not only a member of Davis Polk & Wardwell, Manville's principal outside counsel over the years, but had lobbied in behalf of Manville in Congress when changes in the Bankruptcy Reform Act were being considered in the winter and spring of 1984. During the course of the spring primary campaign, there was said to have been considerable discussion in the Mondale camp over whether to use the asbestos issue against Hart, especially in key industrial states such as Massachusetts, Pennsylvania, Illinois, and New York, where the two candidates were engaged in crucial contests. Caution prevailed, however, and the entire matter—an issue that not only emphasized a major difference between the candidates but could profoundly affect tens of thousands of voters—was allowed to lie dormant until a desperate Mondale decided to raise it at the eleventh hour in New Jersey.

Toward the end of May, part of the bitter four-year controversy over Manville's insurance coverage was apparently resolved when the Manville people, who had been negotiating in secret for nearly six months with the company's primary insurer, Travelers, and with its two major excess carriers—the Home Insurance Company and a group of syndicates connected with Lloyd's of London—announced that the three carriers had agreed to pay a total of nearly three hundred and fifteen million dollars to settle the claims that Manville had brought against them in the California insurance litigation. Coming on the heels of the announcement that Manville and its creditors were close to agreement on a Chapter 11 reorganization plan, news of the proposed insurance settlement raised the hopes of many observers of the bankruptcy proceedings. Within a few days, however, the plaintiff attorneys, who had requested in vain that they be kept informed of the insurance negotiations, learned that the deal between Manville and the three insurers—it called for Travelers to pay Manville eighty-five million dollars; for the Lloyd's syndicates to pay almost a hundred and ten million; and for Home to contribute a hundred and twenty million—provided that the asbestos-compensation trust fund, which was supposed to indemnify asbestos-disease victims, would also be expected to indemnify the three insurers against any and all future claims that might be

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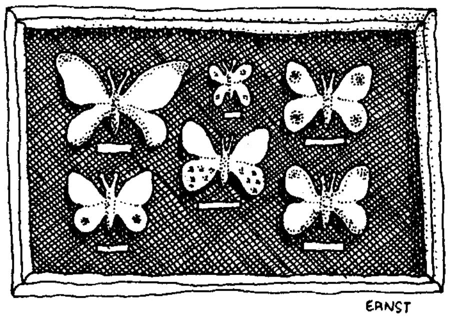
asserted for any reason against the insurance policies in question by other excess carriers or reinsurers, or, for that matter, by almost anyone, including the schools and school districts throughout the country that were sure to bring claims involving coverage of hundreds of millions of dollars' worth of property damage. Not surprisingly, the plaintiff lawyers found this provision totally unacceptable, calling it a walkaway deal that shielded the insurance carriers and Manville at the expense of their afflicted clients. As a result, the settlement talks that had been under full sail suddenly came dead in the water.

The new turn of events threatened to make a mockery of the bankruptcy proceedings over which Judge Lifland had been presiding for twenty-one months. Yet Lifland, sanguine as ever, remarked that if the talks were becalmed all they needed was some wind, and at a hearing on July 26th he continued all pending matters until early September, when he planned to conduct a fairness hearing on the controversial insurance agreement. By now, Lifland seemed to be simply going through the legal motions and playing for time until the participants in the shabby drama being staged in his courtroom got sufficiently tired of the endeavor to make the compromises necessary to achieve a settlement.

As for the attorneys on the committee of asbestos-related litigants, who had gone along with the bankruptcy charade in the hope of achieving just compensation for their clients, and had bartered away at least some of their moral and ethical position in doing so, they filed a belated petition for writ of mandamus in the United States Court of Appeals for the Second Circuit, seeking to have Manville dismissed from bankruptcy. In its petition, the committee asked for a full district-court review of the propriety of Manville's bankruptcy filing, asserting that it had been undertaken in bad faith, and that Lifland had "simply swallowed the Manville story whole." Many observers felt, however, that the committee had been badly outmaneuvered in the proceedings—that the time for requesting that Manville be thrown out of bankruptcy was long past, and that the committee's petition was a matter of too little and too late.

IN the middle of August, Judge Lifland appointed Leon Silverman, a sixty-three-year-old attorney who is co-chairman of the New York firm of Fried, Frank, Harris, Shriver & Jacobson, to represent the future claimants. Silverman, who a few years earlier had directed a special investigation into the alleged racketeering connections of Labor Secretary Raymond J. Donovan, was given the same powers as those enjoyed by any of the creditors' committees. It appeared that he would need even more than that, for—in theory, at least—he was assuming the well-nigh impossible task of assessing the potential asbestos-disease claims that would be brought against Manville and of assuring payment to the claimants. It was a task that would be complicated by the announcement of the Environmental Protection Agency in October that asbestos could be expected to be found in more than seven hundred thousand government, residential, and commercial buildings, and in about thirty-one thousand school buildings, attended by some fifteen million students and staffed by one million four hundred thousand teachers and other employees. Silverman's task would also soon be further complicated by the astonishing news that two hundred thousand private homes in Orange County, California, had been found to contain forced-air heating-and-cooling systems whose ducts were made of asbestos, and by a report issued by members of the American Society of Home Inspectors, who found asbestos in nearly thirty per cent of six hundred and seventy homes they surveyed in the eastern United States.

A couple of weeks after Silverman's appointment, the second anniversary of Manville's filing for bankruptcy reorganization came and went with scarcely a mention in the nation's press, which appeared to have lost interest in the whole affair. By this time, it seemed clear that Manville's objectives in filing for bankruptcy reorganization—buying protection, buying cash, and buying time—had been achieved. It also seemed likely that serious negotiations between Manville and its creditors would not be resumed for some time. (None did take place in the course of the next nine months.) During the autumn, the bankruptcy proceedings moved along at an even more leisurely pace than usual, with Manville officials assuring Judge Lifland that they were engaged in sensitive negotiations aimed at resolving insurance-coverage disputes with other excess carriers, and with Lifland twice adjourning arguments concerning the fairness of Manville's proposed three-hundred-and-fifteen-million-dollar settlement with Travelers, Home, and the London syndicates. As for the plaintiff lawyers, they pointed out that the open-ended indemnity clause in the settlement not only would bar third-party claims against the three insurers but might require Manville to assume defense costs and other liabilities that could wipe out the entire three hundred and fifteen million, without leaving a dime for compensating the victims of asbestos disease. Judge Lifland, however, would not allow them to conduct discovery or take depositions to determine whether the insurance settlement was indeed a fair one, and he refused to hold a full-fledged hearing with testimony on the matter. (In May of this year, the plaintiff attorneys and representatives of various other creditor committees in the bankruptcy proceedings told Judge Lifland that they would withdraw all legal objections to the insurance settlement if some of the language in the agreement was clarified but were reserving the right to contest its adequacy.) Meanwhile, on the other side of the Atlantic the Lloyd's people voiced displeasure with the underwriting policies of their colleagues in the United States. "We can no longer accept the volume of poor risks that the American insurers have been assuming in their mad quest to fatten their books and raise their cash flow," the chairman of one of Lloyd's leading member groups said. He added that "asbestos claims will prove to be the most expensive burden on insurers in history."



This burden was even then increasing greatly as more asbestos cases went to trial and more juries heard the evidence that had been compiled against the defendant asbestos manufacturers. In October, in the Philadelphia Court of Common Pleas, a jury awarded about three hundred and fifteen thousand dollars to a shipyard insulator who had developed nondisabling pleural thickening, and in Galveston, Texas, a United States District Court jury awarded a total of one million nine hundred and fifty thousand dollars to three insulators who had developed asbestosis. The Galveston verdict was dwarfed within a few weeks, when a jury in Marshall, Texas, that had been scheduled to hear a total of thirty asbestos lawsuits voted against the state-of-the-art defense and proceeded to award three insulators who were suffering from asbestosis, together with the widow of a fourth insulator, who had died of the disease, a whopping seven million nine hundred thousand dollars, including one million dollars each in punitive damages. This judgment did a good deal to spur settlement talks, and by the first week in December the remaining twenty-six cases—about half of them involving plaintiffs who had developed nondisabling pleural thickening—and also the four cases that had been tried, since in these no final verdict had been entered, were settled for twelve million dollars by the ten defendants: Pittsburgh Corning, Raymark (formerly Raybestos-Manhattan), Owens-Illinois, Nicolet, Celotex, Eagle-Picher, Keene, Fibreboard, Standard Asbestos, and Armstrong Cork. The fact that each of the thirty plaintiffs would have received four hundred thousand dollars if the twelve-million-dollar settlement had been split evenly among them gave some indication of how steeply the disposition price of asbestos-disease claims had risen since 1968, when Ward Stephenson, the pioneering attorney from Orange, Texas, settled the case of Claude Tomplait, an insulator who had developed asbestosis, for seventy-five thousand dollars.

Since the sharp rise in verdicts in Texas reflected a trend that had been developing elsewhere in the nation, the co-defendant manufacturers and their insurers, who had been bearing the brunt of the asbestos litigation over the two years and more since Manville filed for bankruptcy reorganization, redoubled their efforts to find a way out of their predicament. Some of them sought to shift the blame to the United States under the government-specification defense, which alleged that as contractors they had merely complied with the government's decision to specify the use of asbestos insulation in United States Navy ships during the Second World War. Others put their faith in the Wellington plan, under which a number of them had reached tentative agreement with some of their insurers to establish a national asbestos-claims facility that would operate to settle asbestos lawsuits out of court, using alternative dispute-resolution techniques. Since it was first announced, in May, the Wellington plan had had trouble attracting enough subscribers, especially among excess-insurance and reinsurance carriers, who had never expected to be on the risk for the asbestos coverage they had sold, and had little inclination to acknowledge that they might be. In addition, many leading plaintiff attorneys were threatening to boycott the proposed claims facility, because the manufacturers and their insurers had suggested ground rules that would bar compensation for asbestos claimants who suffered from pleural thickening or pleural plaques. In spite of these problems, Dean Wellington, the chairman of the plan, remained optimistic. "I am convinced the facility will succeed," he said in a statement that was published in October in a fortnightly digest called *Mealey's Litigation Reports: Asbestos*. "The time has come for traditional and expensive courtroom warfare to give way to a private and equitable settlement of the asbestos tragedy."

Wellington left little doubt that the private, no-fault solution he was proposing to the asbestos problem was designed to discourage jury trials, which he described as "complicated, time-consuming, and expensive." Even before he made his statement, however, the non-jury approach to asbestos litigation was running into trouble in the Philadelphia Court of Common Pleas, where a non-jury program that had been in effect for a year had been suspended, because more than half of two hundred and thirty-four verdicts that were handed down by judges had resulted in appeals by either plaintiffs or defendants for a trial de novo. As for the no-fault aspect of the Wellington plan, it could work to discourage the discovery and disclosure of any further evidence concerning the conduct of the nation's asbestos manufacturers. Moreover, because many of its backers were touting the Wellington plan's proposed national claims facility as a model for dealing with future mass toxic-tort litigation, such as the avalanche of lawsuits that was already expected to result from the chemical contamination of the nation's groundwater supplies, it was not hard to see how the whole scheme might be put to work to discourage the uncovering of evidence concerning culpability on the part of certain chemical companies.

As it turned out, a fine example of the kind of information that might never see the light of day if the Wellington plan became a legal reality appeared a week or so before Wellington issued his statement. At that time, government attorneys who were searching through the National Archives during discovery in an asbestos lawsuit came upon a report showing that Eagle-Picher Industries, Inc., of Cincinnati, which had been a manufacturer of asbestos insulation since 1930 and a defendant in asbestos-product-liability lawsuits since 1966, had been warned about the asbestos hazard more than fifty years ago. The report described the results of an industrial-hygiene survey of an Eagle-Picher rock-wool plant in Joplin, Missouri, which had been conducted back in September of 1931 by a physician of the United States Bureau of Mines; he found that lung scarring had developed in three of four men who had been employed part time for less than two years in the plant's mixing room, where mineral wool containing a high percentage of silica was combined with asbestos and made into bricks used to insulate buildings and furnaces. In his report, which was forwarded to Eagle-Picher on a confidential basis in March of 1932, the Bureau of Mines physician warned that the mixing room "is a particularly dusty place," that in combination with fused silica dust "asbestos dust is one of the most dangerous dusts to which man is exposed," and that "it is reasonable to conclude that the men [working there] will get extensive fibrotic changes in a relatively short period of time." At the time the report came to light, a leading plaintiff attorney described its fifty-three-year-old warning as "the strongest piece of punitive-damage evidence" that had yet been unearthed against Eagle-Picher, and some observers predicted that it could prove damaging to the company's legal defense in twenty thousand-odd asbestos lawsuits that had been brought against it throughout the nation.

At the beginning of December, there was another call to put an end to asbestos litigation as it was being conducted. This one came from Stephen Case, a partner in Davis Polk &

Wardwell, who wrote an article in the business section of the New York *Times* that ran under the headline "LAWYERS OFTEN ARE GROSSLY OVERPAID." In his article, Case criticized plaintiff attorneys for charging contingent fees in asbestos cases and other mass torts, saying that this practice constituted an "unprofessional orgy of greed." He went on to suggest that "all lawyers in mass torts should accept expedited dispute resolution procedures and compensation based on hourly rates." Case's article did not mention the fact that in 1981 and 1982 he had been a member of LAG, Manville's Litigation Analysis Group, which had calculated the FASB-5 estimation of liability accrual that paved the way for Manville to file for bankruptcy reorganization under Chapter 11. Nor did his article mention that Davis Polk & Wardwell had been Manville's principal outside counsel for more than fifty years, and also its co-counsel throughout the then twenty-seven-month-long bankruptcy proceedings. During the first seventeen months of those proceedings, the firm had reportedly billed Manville's Chapter 11 estate nearly three and a half million dollars for its services—at hourly rates, to be sure—and then, for the four-month period ending on September 30, 1984, it had run up a bill of more than a million dollars in fees and expenses. (During this same four-month period, some sixty law firms, investment counsellors, and other consultants involved in the bankruptcy proceedings, including firms that represented the Asbestos-Related Litigants Committee, had submitted bills reflecting expenses and hourly fees that totalled more than eight million dollars.)

On December 4th, two days after Case's article appeared in the Sunday *Times*, headlines across the nation and throughout the world were dominated by the ghastly accident in Bhopal, India, where methyl-isocyanate gas leaking from a chemical-pesticide plant owned by the Union Carbide Corporation, of Danbury, Connecticut, killed an estimated seventeen hundred people within a few hours and injured as many as two hundred thousand. During the next several weeks, complaints seeking billions of dollars in compensatory and punitive damages were filed against Union Carbide in the United States by American attorneys who had gone to Bhopal after the accident and signed up thousands of its injured residents and of relatives of the dead as their clients. As might be expected, this engendered intense speculation in the press about the potential liability of Union Carbide, as well as criticism of the plaintiff lawyers, who were castigated by some editorialists as international ambulance chasers seeking to make a killing in contingent fees. Few newspapers—the *Wall Street Journal* being the chief exception—pointed out that under Indian law plaintiffs in tort cases are required to pay a nonrefundable filing fee of up to five per cent of the total damages sought—a prohibitive expense for most of the impoverished victims of the Bhopal tragedy—and that the chaotic court system in India had such a backlog of cases that lawsuits brought there on behalf of these victims might take decades to litigate and decide on appeal. For these reasons, no doubt, a number of prominent Indian lawyers and jurists, including the chief justice of India's Supreme Court, strongly advocated that the Bhopal-accident cases be tried in the United States, since its contingent-fee system affords poor people an opportunity of suing wealthy and powerful corporations. In April of this year, the Indian government, after hiring American counsel, brought suit against Union Carbide in the District Court in New York on behalf of all the dead and injured citizens of the stricken city. Eight days later, Federal District Judge John F. Keenan, presiding over the case, announced that he would name a three-lawyer committee—it would consist of one attorney representing the Indian government and two attorneys from among the dozens of personal-injury attorneys who had filed complaints in behalf of groups of Bhopal victims—to coördinate the litigation. During the next two months, settlement talks between the Indian government and Union Carbide reached an impasse when Union Carbide offered to settle all claims arising from the Bhopal accident for two hundred and thirty million dollars, and the Indian government demanded at least a billion dollars. Meanwhile, as the cases in the United States proceeded toward trial, two thousand lawsuits had been filed in the Bhopal District Court. According to some American lawyers, Union Carbide was challenging many of these lawsuits on technicalities. According to the mayor of Bhopal, ten thousand residents of the city were suffering from severe lung damage.

ANIMAL
CRACKERS
D. Seese

Some months earlier, plaintiff lawyers representing a chemical worker who was suing Union Carbide in Little Rock, Arkansas—he alleged that he had developed asbestos disease after being exposed to asbestos that had been mined by the company in Coalinga, California, and used as a reinforcing agent in the manufacture of plastic bags—introduced as evidence in his case a report entitled "Asbestos as a Health Hazard in the United Kingdom," which had been written in 1967 by a researcher at one of Union Carbide's British subsidiaries and presumably sent to the corporate home office, in New York. In his report, the British researcher warned, "We are not entitled under any circumstances to state that our material [Coalinga asbestos] is not a health hazard." He went on to declare, "If it is believed that a potential customer would use our material 'dangerously,' and that he is unaware of the toxicity question, then it must surely be our duty to caution him and point out means whereby he can hold the asbestos air float concentration to a minimum." Up until the time this report was introduced in the Arkansas case, Union Carbide had not been a substantial defendant in the asbestos litigation—in fact, relatively few asbestos-disease lawsuits had been filed against it—but plaintiff lawyers expected that as a result of the new disclosure the number of complaints against the company would increase.

EARLY in January of 1985, *Fortune* published the results of its annual survey of two hundred and fifty of the nation's large corporations. The survey, which had been conducted in the autumn of 1984, before the tragedy at Bhopal, ranked Manville last for community and environmental responsibility and among the three least admired firms in the country for quality of management and ability to attract, develop, and keep talented people. During that same week in January, lawyers for the Asbestos-Related Litigants Committee, the Committee of Equity Security Holders, and a potential future plaintiff filed briefs in federal District Court for the Southern District of New York asking for the overturn of Judge Lifland's August appointment of Leon Silverman to represent future asbestos-disease victims who might have claims against Manville. The brief for the Asbestos-Related Litigants Committee declared, "No other conclusion can be drawn but that the Bankruptcy Judge intends that a plan of reorganization in this proceeding will affect the rights of Future Claimants, binding them and perhaps even discharging their claims, and that the legal representative appointed in the Decision on appeal will be the instrument utilized to carry out this intention." The plaintiff attorneys went on to point out that "the Fifth Amendment requires that 'due process of law' be accorded before a person's rights can be affected," and that "the bankruptcy power, like other great substantive powers of Congress, is subject to the Fifth Amendment."

This was a significant argument, of course, but Lifland's appointment of Silverman was buttressed in late February when the bankruptcy judge in UNR's Chapter 11 proceedings authorized the appointment of a legal representative for future asbestos-disease claimants and when the Third Circuit Court of Appeals reversed a lower-court denial of the AMATEX Corporation's motion to appoint a guardian for future claimants in its Chapter 11 proceedings. Meanwhile, it had become apparent to many observers of the long-drawn-out bankruptcy proceedings that, with Judge Lifland's tacit approval, Silverman not only had begun to play a leading role in formulating a plan for reorganizing Manville but had become the principal architect of and chief behind-the-scenes negotiator for such a plan.

In February, Manville announced that it had settled its insurance-coverage disputes with three of its excess carriers—the Insurance Company of North America (I.N.A.), the Midland Insurance Company, and the Allstate Insurance Company. They had agreed to provide almost a hundred and twelve million dollars toward settling asbestos-disease claims once the three hundred and fifteen million dollars in coverage from Manville's prior settlement, with Travelers, Home, and the Lloyd's syndicates, was exhausted and certain other conditions were

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met. The agreement provided that if the settlement was approved by the bankruptcy court, and if either Manville or the three settling insurers should subscribe to the Wellington claims facility, the hundred and twelve million dollars in coverage would be dispensed under the Wellington plan. It also provided that this insurance coverage would be triggered during the period beginning with the date of a claimant's first exposure to asbestos and ending on the date on which the claimant first manifested symptoms of asbestos disease, or on which asbestos disease was diagnosed. For its part, Manville agreed to dismiss without prejudice the actions it had brought against I.N.A., Midland, and Allstate in a huge insurance-coverage lawsuit it filed in San Francisco Superior Court in 1980 naming twenty-seven of its insurers as defendants. At the same time, Manville announced that it was continuing to negotiate with the twenty-one insurance carriers against which it remained in litigation in California, and was seeking some two hundred million dollars of additional coverage from them.

Preparations for the California insurance-coverage trial had been under way all winter. The case—one of the most complex and potentially expensive insurance-claim disputes in history, with alleged damages running into the billions of dollars—was a consolidation of Manville's 1980 lawsuit against its twenty-seven insurers with lawsuits that had been brought against many of these same insurers and forty or so additional carriers by four additional asbestos-insulation manufacturers: Armstrong World Industries, Inc. (formerly the Armstrong Cork Company), GAF Corporation, Fibreboard, and Nicolet. At issue was whether billions of dollars in asbestos-disease claims should be paid by the insurer who provided coverage during the time a claimant was exposed to asbestos or by the insurer whose policies were in effect when asbestos disease first manifested itself in the claimant or, under a triple-trigger approach, by both. The logistics of trying the case were staggering: attorneys from some sixty law firms, who represented the five asbestos manufacturers and the seventy-odd insurance carriers involved in the case, were scheduled to present arguments and introduce in evidence about a hundred thousand exhibits and documents totalling approximately a million pages. As a result, a marathon trial was expected to be conducted in several phases and to last at least eighteen months.

On March 4, 1985, the day the trial began, the interior of Nourse Auditorium, a theatre hall that had been specially renovated to accommodate the proceedings, was jammed with attorneys, spectators, television camera crews, and reporters from newspapers, magazines, and law journals all across the nation. On the sidewalk, a dozen or so former asbestos workers who were suffering from asbestos disease held a demonstration to protest the fact that asbestos victims would continue to go uncompensated while Manville spent millions of dollars in attorneys' fees on the insurance litigation.

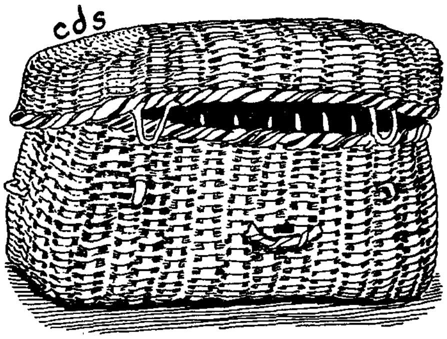
Meanwhile, two weeks before the huge insurance trial got under way, three of the major defendant carriers in the litigation—Fireman's Fund, the Home Insurance Company, and CNA Insurance Companies—had signed up conditionally to join the Wellington plan and its proposed asbestos-claims facility. This prompted some proponents of the plan, whose conditional subscribers now numbered thirty-three asbestos manufacturers and twenty-two insurance companies, to push ahead for final, binding agreement. Some of the attorneys who were involved in the California insurance litigation predicted that if the Wellington settlement could be completed and its claims facility set up during the summer the companies involved in the huge lawsuit would dismiss their claims against one another. In any event, almost no one believed that the insurance case would be litigated to the bitter end, not the least of the reasons being that the evidence the manufacturers and the insurance carriers had dug up on each other over the years might be used against them in future cases by lawyers for asbestos-disease plaintiffs.

As for the plaintiff attorneys, some of them who had supported the basic concept of the Wellington plan now began to express concern that it might be used against their clients. On March 19th, at a hearing held before the Senate Labor and Human Resources Committee's Subcommittee on Labor, an attorney for the A.F.L.-C.I.O. pointed out that the Wellington agreement was essentially a peace treaty between asbestos manufacturers and their primary insurers, and asked whether the claims facility would offer fair and timely compensation to asbestos-disease victims or whether the manufacturers and insurers would "use their newfound harmony to wage a unified war of attrition against the victims who seek compensation." At the outset of the hearing, Dean Wellington, who said that he was there to testify as "the neutral moderator of a private group of major asbestos producers and their insurers," declared that "asbestos litigation in America has reached truly epidemic proportions . . ." (He could, of course, have said the same thing about asbestos disease.) Referring to the Rand report that had been used by the Washington *Post* to support its contention that the tort system was an inefficient way to compensate asbestos victims, Wellington said that it was unacceptable that almost two-thirds of the judgments or settlements in asbestos cases were going to lawyers, and that asbestos-disease claimants were "getting only 37 cents of each dollar awarded." At that point, Senator Howard M. Metzenbaum, Democrat of Ohio, asked Wellington if he had "taken a look at the report itself to determine impartially that it is objectively done." Referring to a copy of the report that he had brought with him, Metzenbaum then pointed out that asbestos-disease claimants in tort litigation were actually getting fifty-nine cents on the dollar. After acknowledging that he could not testify to the validity of the figures in the Rand report, and apologizing for any confusion he may have caused, Wellington proceeded to criticize the way asbestos-disease claims were being handled by the tort system, saying that "even when a company is judged blameless, it still incurs large legal expenses," and pointing out that workers claiming similar injuries might be awarded widely different damages if they filed their claims in different legal jurisdictions. Later in his testimony, after informing Metzenbaum that key questions about how the claims facility would work to compensate asbestos-disease victims could be answered only after the facility was in operation, Wellington declared that it was "an obscenity" to have twenty teams of defense lawyers in a typical asbestos case when one would suffice, and assured his listeners that the claims facility proposed under the Wellington plan would have only one. The fact is, of course, that the manufacturers and their insurers could have pooled their defenses at any time during the long-drawn-out asbestos litigation, and saved millions of dollars in legal fees in doing so; instead—and this was the real obscenity—they had forced attorneys for sick and dying plaintiffs to litigate the same issues of medical causation and liability over and over, in a calculated effort to wear the plaintiffs down and force them to agree to cheaper settlements.

AMONG the witnesses at the March 19th hearing who favored establishing the claims facility were the president and chief executive officer of the Pittsburgh Corning Corporation, who declared that "asbestos litigation is a burden on our companies," and the chairman and chief executive officer of the Hartford Insurance Group, who said that "the money that is being dissipated by the endless legal wrangles threatens the economic foundations of both asbestos producers and insurance companies." Also testifying in favor of the facility was Robin A. G. Jackson, a director of Merrett Syndicates, Ltd., a major underwriting agent of Lloyd's. Jackson was the chief negotiator for the London reinsurance market in the Wellington talks, and was appearing at the hearing in his capacity as chairman of the London Asbestos Working Party, a group of insurers and reinsurers that had been formed in 1980 to deal with problems posed by asbestos-disease claims. He told the hearing, "What has really distressed all of us in London so much is the grim reality that, on current performance, many of those suffering will not live to receive their damages and for many others compensation will come too late to provide any real relief." (What would soon be additionally distressing to the people back in London was that five hundred member investors of two of Lloyd's other underwriting syndicates—most members are nonprofessional investors known as "names," and are often prominent and wealthy people—who were heavily on the risk for asbestos-product-liability and Agent Orange disease claims in the United States, and were facing losses that could exceed one hundred and sixty-five million dollars, not only were refusing to pay up but were threatening to sue the managers of the syndicates for irregularities and fraud, and pressing Lloyd's to compensate them for at least some of their losses, claiming that Lloyd's should assume a more vigilant role in monitoring its five-billion-dollar insurance market.) Later in his testimony, Jackson told the hearing, "The sooner the spirit of compromise prevails over producers, insurers, and reinsurers alike, and they unanimously adopt the Asbestos Claims Facility, the sooner we can start defusing this social and economic time bomb." Jackson soon took a step to defuse any future insurance time bombs. On the day after he testified at the hearing, he wrote a letter to another syndicate member of Lloyd's, saying that his syndicate would henceforth "exclude absolutely all pollution coverages."

On June 19th, thirty-four asbestos manufacturers and sixteen insurance companies signed a final, binding agreement that will make the Wellington plan and its proposed claims facility a reality. Missing from the manufacturer signatories were Manville, UNR, AMATEX, and Forty-Eight—the asbestos producers that had filed for bankruptcy reorganization—as well as such major defendants in the ongoing asbestos litigation as Raymark Corporation (formerly Raybestos-Manhattan), GAF, and Nicolet. At least half a dozen of the manufacturers who signed the final agreement were relatively minor participants in the litigation. Among the insurers who declined to sign it were Travelers, Home, and CNA. Home and CNA, which had earlier been conditional signers, had significant liability for excess asbestos-insurance coverage. Home was reportedly having problems with its reinsurers, which refused to endorse its participation in the Wellington plan.

As for how the Wellington plan will fare, a major question is whether the manufacturers and their insurers will be able to agree on how to deal with the tens of billions of dollars in property-damage claims that have been filed by schools, cities, counties, government agencies, businesses, and individuals that have discovered friable asbestos products in their buildings. Up to now, the problem has loomed so large that most of the Wellington-plan negotiators have been reluctant to discuss it in public. For example, neither Wellington nor anyone else who testified in favor of the proposed claims facility at the March 19th hearing had anything to say about the property-damage claims. These claims had been looming for some time as a second tidal wave of asbestos litigation, and following Judge Lifland's recognition of an unofficial creditors' committee for asbestos-related property-damage school claimants, in 1983, they had begun to be an issue in Manville's Chapter 11 proceedings. Still, the true extent of the potential problems that these claims posed for Manville did not become apparent until the summer of 1984, when Lifland, in yet another demonstration of the astonishing powers that are vested in bankruptcy judges, set an October 31st deadline for filing them. This, naturally, occasioned a dramatic rise in the number of property-damage claims being brought by schools and school districts, by local and state government agencies, and by private property owners who had found asbestos in their office buildings. The surge of claims was further encouraged when the Environmental Protection Agency announced, on October 12th, that friable asbestos might be found in thirty-one thousand of the nation's school buildings and in twenty per cent of the nation's commercial, residential-apartment, and federal buildings—an estimated seven hundred and thirty-three thousand buildings in all.



Whatever the validity of these estimates, the E.P.A.'s efforts to deal with the hazard of asbestos in schools had been inept and ineffective from the start. When Congress passed the Asbestos School Hazard Abatement Act, in 1984, it authorized the E.P.A. to oversee a program of inspecting the nation's schools for asbestos and to allocate six hundred million dollars in loans and grants over the next six years for the purpose of removing asbestos from the schools in which it was found. Bureaucratic foot-dragging within the E.P.A., however, caused both the inspection program and the removal process to fall far behind schedule. Indeed, not until June of 1985 did the E.P.A. get around to announcing that it was giving forty-five million dollars in grants and loans to three hundred and forty-one schools, which had been judged to have the greatest financial need and the most severe asbestos health risks

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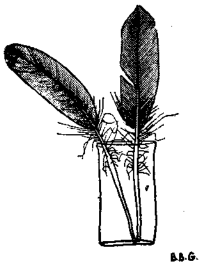
out of some forty-eight hundred that had applied for assistance across the nation. Under an E.P.A. rule promulgated in 1982, schools were supposed to have been inspected for the presence of asbestos, and notices about the findings of the inspections sent out to parents, teachers, and school employees, by the end of June of 1983. This was not accomplished in many of the nation's schools, in spite of E.P.A. assurances to the contrary. (Indeed, in December of 1984 an E.P.A. official admitted that at least two-thirds of the schools in New Jersey were not in compliance with the inspection program.) To make matters worse, E.P.A. safety regulations designed to protect the health of pupils, teachers, and school employees while asbestos-removal projects were in progress had not been put into effect. According to some observers, this negligence came about because of concern among officials of the Reagan Administration's Office of Management and Budget that E.P.A. regulation of asbestos removal in schools might cause additional pressure to be exerted upon the government to help pay for the claims of workers who had developed asbestos disease as a result of their employment in government-owned or government-sponsored shipyards during the Second World War. (Such assessments gained credence in April of 1985, when E.P.A. officials admitted in testimony before the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee that they had, in fact, been pressured by the O.M.B. to weigh the dollar value of human life in considering how to regulate asbestos—a disclosure that should be all the more interesting to the members of the subcommittee in light of the fact that during the same month at least three cases of damaged or deteriorating asbestos ductwork were found in House and Senate office buildings.) In any event, the E.P.A.'s failure to put into effect safety regulations for asbestos-abatement projects had allowed many fly-by-night contractors with poorly equipped and poorly trained workers to undertake asbestos removal without instituting proper precautions and, by so doing, to stir up asbestos-dust levels far more hazardous than those they were supposed to be abating. As a result, almost all insurance companies have refused to issue liability policies to asbestos-removal contractors, and this, in turn, has brought abatement of the asbestos hazard in schools to a virtual standstill. At the same time, some insurance carriers were refusing to issue liability policies to schools—especially schools that had not undertaken asbestos removal—with the result that the problems being faced by school boards and school districts across the nation were compounded.

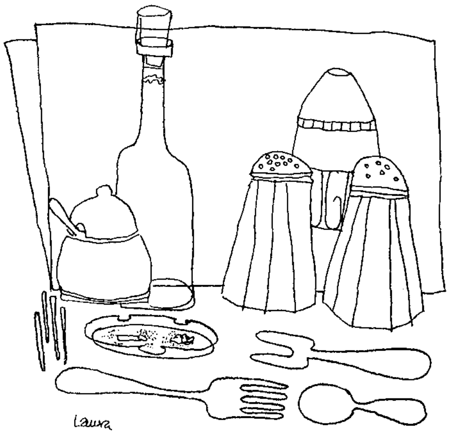


Because of this unholy mess, it is not surprising that efforts to deal with the asbestos hazard in schools have moved into the legal arena. In September of 1984, a federal judge in the Eastern District of Pennsylvania certified a national-plaintiff class of some fourteen thousand schools and school districts across the nation in a class-action lawsuit that had been brought against more than fifty manufacturers of asbestos-containing products that had been used in the construction of school buildings throughout the United States, and also a number of mining companies that had supplied the raw asbestos used in these products. Among the defendants in the class action were the National Gypsum Company, of Dallas; the United States Gypsum Company, of Chicago; and W. R. Grace & Company, of New York City—major manufacturers of sprayed-on asbestos acoustical ceiling material—as well as Owens-Illinois, Owens-Corning, Pittsburgh Corning, and Celotex, all of whom made asbestos insulation that had been used to cover pipes and boilers in school buildings. During the last two weeks of September, 1984, the State of Maryland filed a lawsuit against forty-seven manufacturers and distributors of asbestos products, seeking five hundred million dollars to clean up asbestos in more than three thousand public buildings; and the City of Baltimore filed a two-hundred-and-twenty-five-million-dollar lawsuit against fifty-five asbestos companies. In mid-October, because of complaints by many states, counties, municipalities, and other agencies that they had received insufficient notice, Judge Lifland was obliged to extend the filing deadline for property-damage suits against Manville to January 31, 1985. During the next ninety days or so, an avalanche of additional claims was filed against Manville and other asbestos manufacturers. Among them were a two-hundred-and-fifty-million-dollar claim by New York City and its Board of Education; separate four-hundred-million-dollar claims by Oregon, Nebraska, and the District of Columbia; a six-hundred-and-fifty-million-dollar claim by the National Association of Counties in behalf of approximately two thousand county governments; a claim by Michigan for nearly two billion dollars; a ten-billion-dollar class-action claim by a California school district in behalf of public schools across the nation; and a ten-billion-dollar claim by the city of San Leandro, California, in behalf of other municipalities in the country.

Early in April, Manville announced that as of March 1st it had been named in some eleven thousand property-damage claims, seeking approximately fifty billion dollars. Because the damages sought in many of these are believed to be inflated, and because the claims include those made against other manufacturers of asbestos products that have been used in the construction of schools and other buildings, it is difficult to assess how seriously they may affect Manville's attempt to deal with its asbestos-litigation problems in Chapter 11. Some attorneys estimate that the justifiable combined property-damage claims against Manville and other manufacturers may amount to between ten and fifteen billion dollars, though most observers believe that the total bill that the producers and their insurers will end up paying will be far less. Other attorneys say that Manville's own potential liability could be enormous—perhaps running to several hundred million dollars—because the company not only made and sold asbestos-insulation products but also mined and sold much of the raw asbestos used by other manufacturers in making such products, and those products found their way into hundreds of thousands of government, commercial, and residential buildings and schools. Still others predict that co-defendant manufacturers seeking to hold Manville liable for supplying them with raw asbestos may find it extremely difficult to substantiate this position in court.

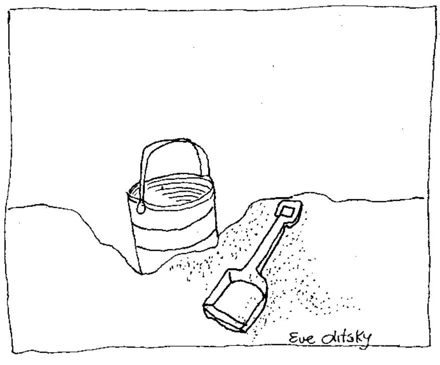
As for the biological consequences of asbestos in the nation's schools, one thing is indisputable: because of exposure to low levels of asbestos, millions of children have been and are still being placed at potential risk of developing malignant mesothelioma—the invariably fatal tumor that is almost always associated with some, even if slight, inhalation of asbestos, and can occur from twenty to forty or more years after the first exposure to the mineral. In addition, hundreds of thousands of teachers and other school employees—particularly maintenance personnel—are at even greater risk, because of longer and more intimate exposure to asbestos. It is not known, nor can it be accurately predicted, just how many of these people will develop cancer as a result. What is known is that in some instances asbestos levels in schools with asbestos-containing ceilings that have been badly damaged are similar to those measured in the homes of asbestos workers, and that, according to a study by Herbert Seidman of the Department of Epidemiology and Statistics of the American Cancer Society, the wives and children of asbestos workers have been shown to be at greater risk of developing cancer than people in the general population. A study conducted by Dr. Henry A. Anderson and Dr. Selikoff and their associates at Mount Sinai shows that mesothelioma caused five out of approximately four hundred deaths that occurred twenty or more years after first exposure to asbestos among members of the households of workers at an asbestos factory in Paterson, New Jersey, and other studies conducted by them show that the chest X-rays of fully thirty per cent of the wives and children of asbestos-factory workers reveal asbestos-related abnormalities. Thus, it should come as no surprise that cases of mesothelioma are now beginning to be reported among teachers, custodians, and former pupils at schools containing friable asbestos products, which constituted their only known exposure to asbestos.

Asbestos manufacturers, for their part, have denied that asbestos levels in the ambient air of schools are hazardous, claiming that they are far too low to cause disease. Be that as it may, on April 9, 1984, School District Five of Lexington County, South Carolina, reached a six-hundred-and-seventy-five-thousand-dollar out-of-court settlement with United States Gypsum in the nation's first school asbestos lawsuit to go to trial. However, the asbestos manufacturers have no doubt been encouraged by a jury verdict that was won on March 12, 1985, by United States Gypsum and National Gypsum, the defendants in the second school asbestos-hazard case to go to trial. The lawsuit had been brought against the two companies by Anderson County, Tennessee, and during the trial defense lawyers told the jury that the asbestos-fibre counts in air samples collected in the county schools were so low that it would take a thousand years for a pupil to develop cancer as a result of exposure. Another factor in the outcome of the case was that the defendants were able to erect a state-of-the-art defense based upon the claim that the medical and scientific community had no knowledge of the hazard of low-level exposure to asbestos until the early nineteen-seventies. This, of course, was reminiscent of the similar, and subsequently discredited, defense raised in cases involving asbestos insulators, when the manufacturers claimed that the medical and scientific community had had no knowledge of the hazard posed by asbestos to insulators until Dr. Selikoff published his epidemiological studies of mortality among asbestos insulators in 1964. In any event, while most lawyers were cautious in appraising the verdict in the Anderson County case (the County's motion for a new trial was subsequently denied), it appeared to indicate that the litigation over asbestos-property-damage claims would turn out to be as protracted and hard-fought as the personal-injury lawsuits had been.

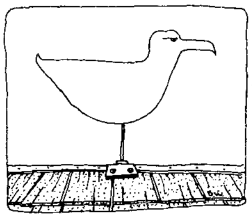


IN the meantime, the Manville bankruptcy proceedings continued to limp along as Judge Lifland postponed for the third time a fairness hearing on Manville's ten-month-old insurance settlement with Travelers, Home, and the underwriters' syndicates at Lloyd's of London. The reason given for the latest delay was that Leon Silverman was in the process of fashioning a plan for Manville's reorganization and would soon be presenting it to the company's creditors. Nothing could delay the continuing time of reckoning for some of Manville's co-defendants, however, and during the late winter and early spring several important verdicts were handed down in asbestos-disease cases that went to trial. On February 22nd, a federal-court jury in Hawaii awarded two hundred and thirty thousand dollars in compensatory damages and five hundred thousand dollars in punitive damages against Raymark Industries to the survivors of a worker at the Pearl Harbor Naval Shipyard who had died of lung cancer at the age of sixty-six, but the presiding judge dismissed the verdict because the state had a two-year statute of limitations and the jury had found that the dead man knew or should have known he had developed asbestos disease two years and twenty-three days before he filed his lawsuit. On February 27th, a circuit-court jury in Cook County, Illinois, returned an eight-hundred-and-four-thousand-dollar verdict—including a hundred and seventy-four thousand dollars in punitive damages—against Forty-Eight Insulations, a small asbestos-insulation-manufacturing company, of Aurora, Illinois, on behalf of a pipe coverer who had become disabled by asbestosis and lung cancer. (Less than two months later, Forty-Eight became the fourth asbestos-insulation manufacturer to file for reorganization under Chapter 11.) In late February, a San Francisco longshoreman suffering from mesothelioma, who was represented by Steven Kazan, of Oakland, reached an out-of-court settlement of slightly more than a million dollars with ten defendant manufacturers. In March, in the Philadelphia Court of Common Pleas, a shipyard worker who had developed pleural plaques and pleural thickening was awarded the unusually large sum of five hundred thousand dollars by a jury in a trial de novo that had been requested by the plaintiff after a judge in a non-jury trial returned a verdict for the defense. And on April 22nd a Honolulu circuit-court jury came back with an award of almost five million three hundred thousand dollars in compensatory damages, plus three million dollars in punitive damages—the largest verdict ever handed out in an asbestos lawsuit—against Raymark Industries in behalf of the family of Lawrence Kaowili, a ship-fitter at the Pearl Harbor Naval Shipyard from 1959 to 1978, who had developed asbestosis and died of lung cancer in 1979, at the age of forty-five, leaving a widow and five minor children. Because Kaowili had been a cigarette smoker, the jury found that he was contributorily negligent and one-third responsible for his injuries, and for this reason the presiding judge was obliged to lower the compensatory damages by about one million eight hundred thousand dollars. (The three-million-dollar punitive verdict was allowed to stand.) Two and a half weeks later, a California Superior Court jury in Los Angeles added to Raymark's woes when it returned a two-million-dollar compensatory verdict against the company in favor of an eighty-one-year-old former garage mechanic who had developed mesothelioma and claimed that it had been caused by his inhaling asbestos fibres from brake linings manufactured by Raybestos-Manhattan. This was the first plaintiff verdict in a brake-lining case—the plaintiff was represented by Aaron Simon—and it bode especially ill for Raymark, a major manufacturer of brake linings, because, back in 1981, Dr. Selikoff and William Nicholson had predicted that there would be twenty thousand excess deaths from asbestos-related cancer among automobile mechanics in the United States within the next forty years.

As for the Kaowili case, it had an ironical aftermath. Following the trial, it was learned that all of the other twenty-odd defendants in the action had previously settled out of court for a total of seven hundred and seventy-five thousand dollars. (Even so, the jury found that two of these defendants, Johns-Manville and H. K. Porter, had a share of responsibility for Kaowili's injuries worth one million four hundred thousand dollars and, under Hawaii law, this amount was credited to Raymark, further reducing the company's obligation to two million one hundred thousand dollars.) As it happened, Kaowili's family, which was represented by a plaintiff attorney named Gary Galiher, of Honolulu, had been willing to settle with Raymark for four hundred and twenty-five thousand dollars, but the company had refused, offering only fifty thousand. At a subsequent hearing, Galiher called this a "nusiance-value offer," pointing out that it was less than the attorney fees Raymark had incurred in litigating the case, and on May 14th the presiding judge added slightly more than a million dollars in prejudgment interest to the compensatory damages awarded to the Kaowili family. Another ironical twist occurred on April 23rd, the day after the initial jury verdict, when Frederick J. Ross, the president and chief executive officer of Raymark, told a House labor subcommittee that the current asbestos litigation was a "grossly inadequate means" of providing compensation for asbestos workers, and urged Congress to "instruct the government to contribute its fair share" to this end. Ross was testifying in support of a proposed bill to compensate asbestos victims, which was being sponsored by the subcommittee chairman, Representative Austin J. Murphy, a Democrat of Pennsylvania. Like the Fenwick and Hart bills that preceded it, Murphy's measure, which carried the unfortunate title the Asbestos Workers' Recovery Act, sought to involve the nation's taxpayers in bailing the asbestos industry out of its legal and financial difficulties. It proposed that the federal government and the industry create a joint fund to compensate asbestos victims, with the government paying half of all benefits awarded up to an annual federal cap of a hundred and fifty million dollars.



By now, it should have been obvious to almost anyone following the asbestos litigation that was taking place in the nation that asbestos-insulation manufacturers who chose to go to trial in asbestos-disease cases, rather than settle out of court, ran an increasing risk of incurring punitive-damage verdicts; no longer merely a feared phenomenon, they were fast becoming a dreaded probability. For this reason, one of the most interesting and potentially controversial provisions of the long-awaited reorganization plan that Silverman outlined for Manville's creditors on April 3rd, at a meeting in the downtown offices of Fried, Frank, Harris, Shriver & Jacobson, was that while asbestos-disease victims with claims against Manville should retain their right to have a jury trial the question of whether they should be able to collect punitive damages against the company was deliberately left vague. This was undoubtedly done to encourage asbestos-disease victims to take their claims to the all-inclusive claims-handling facility that Silverman's proposed reorganization plan required Manville to join, and seemed to indicate that Silverman expected Manville to join the claims facility that was being set up under the Wellington plan. (Within a few days, however, a spokesman for Manville announced that the company would not commit itself to joining the Wellington accord until it knew more about how the plan would operate.)



The slippery issue of whether it was constitutional for the claims of future asbestos-disease victims to be dealt with in bankruptcy proceedings was one that Silverman sidestepped at the outset of his presentation, announcing that he intended to serve as a guardian of their interests without taking a position in the matter. He would work as a negotiator to put together a settlement vehicle that, he said, would provide fair and equitable compensation for present asbestos-disease claimants and would accommodate future claimants as their need arose. Silverman's proposals for financing this settlement vehicle turned out to be considerably more demanding of Manville's resources than any that had previously been considered by the company's creditors. In addition to the six hundred and fifteen million dollars in insurance coverage that Manville was said to possess, he called for the company to provide a hundred million dollars in cash immediately upon confirmation of the settlement plan, for the purpose of compensating the victims of asbestos disease. He went on to propose that Manville pay thirty-seven and a half million dollars a year for seven years in order to continue financing the settlement vehicle, and increase these payments to seventy-five million dollars a year for the next eighteen years. Moreover, he proposed that if Manville's chief operating company should prove to be financially successful additional funds as required would be provided to the settlement vehicle on the basis of an earnings formula.

In order to insure further that all present and future asbestos-disease claims would be compensated, Silverman called for the settlement vehicle to own ninety per cent of the stock of Manville's chief operating company and for the holders of common stock and the holders of preferred stock to receive seven per cent and three per cent, respectively, of the remaining ten per cent. (As might be expected, this proposed stock dilution was opposed by members of the shareholders' committee in the bankruptcy proceedings, who felt it was excessive.) Silverman went on to say that Manville's other creditors should also be prepared to make sacrifices if his plan was to have any chance of succeeding. First, he called upon the banks and other trade creditors, to whom Manville owed some three hundred million dollars, to forgo payment of the interest that they claimed had been accruing on this debt since the company filed for reorganization. (In making this request, he was undoubtedly hoping to achieve some compromise in the matter.) Second, he called upon the plaintiff attorneys to be prepared to discuss the question of their contingent fees, undoubtedly expecting these fees to be lowered. And, finally, he suggested that the co-defendant asbestos manufacturers should guarantee that if the Manville settlement vehicle should run out of money they would step in and continue to finance it.

In addition to the sidestepped question of whether it was constitutional to deal with future asbestos-disease claimants in bankruptcy court, Silverman's proposed settlement plan contained at least one serious potential defect: this was an unexplained and undocumented assumption that the property-damage claims against Manville, which totalled some fifty billion dollars, could somehow be settled in bankruptcy court for a mere fifty million. (Silverman apparently believed that Judge Lifland might accomplish this by issuing a non-appealable bankruptcy reorganization order.) Nevertheless, his ideas for reorganizing Manville were fairly well received by the company's creditors—except for the representatives of the property-damage claimants and of the shareholders—for they felt that he had put together the broad outline of a settlement plan upon which everyone except Manville might be able to agree, and they were hoping that Judge Lifland, whose confidence Silverman appeared to enjoy, would end up forcing Manville to accept it. Before any such thing could happen, of course, there would be many more months of backing and filling in bankruptcy court, and perhaps as much as a year or two of litigation, but at least it seemed

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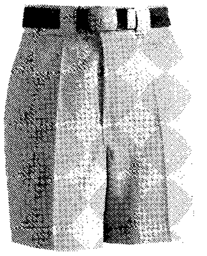

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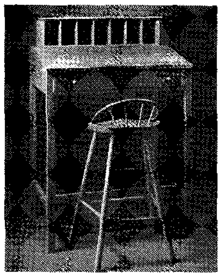

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clear that serious negotiations with Manville might soon be resumed after a hiatus of more than eight months. It also seemed clear that sooner or later a resolution of the long-drawn-out dispute would be achieved and set out on paper in properly laborious legal terminology. Once that had come about, everyone concerned would no doubt proclaim the triumph of common sense and compromise, and, echoed by the nation's newspapers, hail the resolution of a great national tragedy. The real resolution of the asbestos tragedy would go largely unmentioned, because it would be something entirely different. The real resolution would be the terminal despair and suffering of tens of thousands of disabled asbestos workers who were dying or would die of asbestosis, of lung cancer, and of malignant mesothelioma.

ONE obvious lesson to be learned from the fifty-year asbestos-disease saga is that a society that cannot summon up the sense to protect the lungs and the lives of its workers cannot hope to protect the lungs and the lives of its other citizens, including its children. Specifically, if we had been able to muster up the courage and the conviction to safeguard the health of our asbestos workers back in the nineteen-thirties and nineteen-forties, when the first serious warnings about the asbestos-disease hazard were issued, we would surely not have allowed asbestos to be used in thousands of school buildings that were constructed in the United States between 1959 and 1972, and would thus not be faced today with the prospect of spending billions of dollars to decontaminate these schools of asbestos, or with the anxiety of wondering what past asbestos exposure will mean for the future well-being of the millions of children who have been attending them. The same holds true, of course, with regard to the nation's chemical workers. If we had seen fit to protect them from the ravages of carcinogenic chemicals back in the nineteen-fifties and early nineteen-sixties, when pioneers such as W. C. Hueper and Rachel Carson were warning of the hazard, we would scarcely have allowed these chemicals to be sprayed indiscriminately on our croplands and dumped into our landfills, so that they could one day find their way into our drinking water. That we did allow this to happen not only reflects our societal callousness toward the well-being of workers but also attests to a profound failure of imagination, which rendered us unable to understand that the poorly controlled manufacture and use of toxic substances in the workplace was bound to come back to haunt us, for the simple reason that workers make things that the rest of us either use directly or are exposed to indirectly, when they are used, or discarded, by our neighbors. In the case of asbestos—an indestructible mineral that is an ingredient of several thousand products and industrial applications, and has found its way into almost every factory, school, home, and farm across the land, and also every automobile, airplane, train, ship, and missile that is produced in the nation—our callousness and unimaginativeness have had some unique and ironic ethical consequences. The health hazard posed by this ubiquitous and invisible fibre of stone has not only sifted into the far corners of our society but called into question the conduct of a huge cross-section of the institutions that make up the private-enterprise system, including many of its manufacturing corporations, insurance companies, investment houses, law firms, trade unions, and governmental regulatory agencies, as well as many members of the medical and legal professions, the scientific community, and Congress. Indeed, such are the ramifications of the asbestos-disease issue that it has called into serious question the conduct of a leading contender for the Democratic nomination for the Presidency.

Whether our society can learn from the hideous example of asbestos disease is open to conjecture. On June 14th of this year, Judge Ronald J. P. Banks, of the Cook County Circuit Court, in Chicago, found three officials of a company engaged in reclaiming silver from old film guilty of murder in the death of a plant employee from exposure to hydrogen cyanide fumes that resulted from the reclamation process. In a landmark decision, the judge said that "the conditions under which workers performed their duties were totally unsafe," and that the convicted officials were "totally knowledgeable" of the hazardous conditions in the plant. Richard M. Daley, the Cook County State's Attorney, who prosecuted the case, said that the verdicts meant that employers who knowingly exposed their workers to dangerous conditions could be held "criminally responsible" for their actions. This development notwithstanding, it also seems likely that, rather than reform the private-enterprise system in order to stem the onslaught of environmental pollution and accompanying illness, we will fulfill the ethical bankruptcy prophesied by Anthony J. Mazzochi, the outspoken former legislative director of the Oil, Chemical, and Atomic Workers International Union. "History shows that the lawsuit is the only adequate preventive measure against occupational and environmental cancer," he has said. "Take away the lawsuit, replace it with a compensation schedule or some other administrative scheme, and you pave the way for cancer to become just another commodity to be costed out. The solution now being negotiated for the asbestos problem can then be applied across the board to future problems, such as the widespread contamination of the nation's drinking water supplies with cancer-producing chemicals. In this manner, you can institutionalize occupational and environmental cancer as a way of life."

The fact is that as a result of bills like Senator Hart's and the reluctance of the public and of influential officials like Chief Justice Burger to understand that the asbestos litigation was a triumph of justice which is now being betrayed by the thickets of the Bankruptcy Code, the foundation for this institutionalization has already been laid. As a result, not only may Manville escape the full measure of its liability for the horror of asbestos disease but corporations that are found guilty

of similar misconduct in the future may similarly escape responsibility.

Another escape hatch may well be the proposed Uniform Product Liability Act, several versions of which have been introduced in the Senate since 1982 by Senator Robert W. Kasten, Jr., Republican of Wisconsin, who is chairman of the Senate Commerce Committee's Consumer Subcommittee. If Kasten's bill is enacted, it could help facilitate the production of carcinogenic chemicals and toxic substances, for it proposes, in effect, to do away with the concept of strict liability, and to shift the burden of proof from the manufacturers and distributors of hazardous products to the consumers. This measure is supported by the Reagan Administration and by two large business coalitions—the Product Liability Alliance and the Coalition for Uniform Product Liability Law. These two organizations are made up of some three hundred manufacturing corporations, insurance companies, and trade associations (the Alliance includes the National Association of Manufacturers, the Business Roundtable, and the American Insurance Association), and, according to Robert H. Malott, chairman of the board and chief executive officer of the FMC Corporation, a Chicago-based manufacturer of, among other items, insecticides, fungicides, and herbicides, they are considered to be "the most broadly based coalition of business groups ever assembled to support a specific cause."

Among other provisions, Kasten's bill would prevent anyone who is injured by a defective product from recovering damages from its manufacturer unless he can prove that the manufacturer knew or should have known to begin with that the product was defective. It would prevent anyone from recovering damages against the manufacturer of a capital good—one selling for a thousand dollars or more—if the defective product that caused the injury was more than twenty-five years old. It would prevent anyone from bringing a product-liability lawsuit against the manufacturer of a harmful product more than two years after the claimant discovered, or should have discovered, the injury and its cause. Under certain circumstances, it would allow a manufacturer to avoid liability for a defective product by warning an intermediate seller or employer, who would then be expected to warn the user or consumer about its hazard. It would do away with the important concept of market-share liability, as this was stated in 1980 in Sindell v. Abbott Laboratories, by requiring a claimant to prove that the product that injured him was manufactured by the defendant; that is, it would negate the rule of law under which drug manufacturers were held liable for injuries caused by DES, on the ground that it was impossible for the daughter of a woman who had been given the drug to identify its particular manufacturer. In addition, the bill proposed by Kasten would make it more difficult for juries to award punitive damages against corporations manufacturing defective products, by raising the criterion for their award from a preponderance of evidence showing reckless disregard on the part of a manufacturer to "clear and convincing evidence" of such disregard. Moreover, Kasten's measure proposes that judges, not juries, would henceforth decide the amount of punitive damages to be awarded. The 1984 version of his bill would have protected a company from having to pay punitive damages to more than one plaintiff, and thus would destroy the concept of punitive damages as a deterrent to future misconduct, but widespread opposition to this provision forced Kasten to delete it when he reintroduced his measure before the Senate in January of this year.

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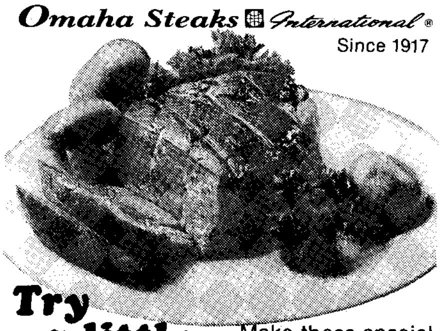
Opponents of Kasten's bill point out that it has been designed to limit the legal rights of some three hundred thousand Americans who are permanently disabled each year by product-related injuries, and of the survivors of some eighty thousand people who die each year of such injuries. In March of 1982, in testimony before Kasten's Consumer Subcommittee, David I. Greenberg, the legislative director of the Consumer Federation of America, said that agitation for a federal product-liability law was being spearheaded by the nation's insurance carriers. He went on to say that if the legislation was enacted it would "force too many innocent victims to thread a legal needle while providing too many defendants with a legal hole large enough to drive a truck through."

In an Op-Ed piece that was published in the *Times* in the spring of 1983, Jay Angoff, an attorney with the Public Citizen's Congress Watch, which is a public-interest group that was founded by Ralph Nader, put the problem of Kasten's bill in a nutshell. "The existing private litigation system is the primary self-protection tool consumers have," he wrote. "It compensates victims of defective products and encourages manufacturers to do safety research, since they know they will be held liable. The Kasten bill discourages manufacturers from doing such research, because if manufacturers don't know about a defect, they can't be liable for injury it causes."

A year later, Congress Watch reported that the political-action committees of members of the Product Liability Alliance and the Coalition for Uniform Product Liability Law had made campaign contributions totalling almost nine hundred thousand dollars to members of the Senate Commerce Committee since January 1, 1979. According to Congress Watch, more than a hundred and thirty thousand dollars of this went to Senator Paul S. Trible, Jr., Republican of Virginia, who introduced an amendment to the Kasten bill which would limit punitive damages against corporations making defective products. A spokesman for Trible admitted that the Senator had introduced the amendment after being approached by the A. H. Robins Company, of Richmond, Virginia, makers of the Dalkon Shield intrauterine device. Robins had sold nearly three million Dalkon Shields in the United States between 1971 and 1974, and since 1972 it has been the target of more than twelve thousand lawsuits and claims brought by women who alleged that they had been injured by the device, and were seeking damages because Robins had failed to warn them that it could be hazardous to their health. The company, whose attorneys combatted some of the lawsuits by demanding that claimants reveal details of their sex lives, has settled with almost nine thousand plaintiffs for more than three hundred million dollars and, as of March, 1984, had been found guilty of outrageous and reckless misconduct by the members of seven juries, who returned punitive awards against it totalling more than thirteen million dollars. In July of 1984, a former attorney for Robins testified in a federal court in Minneapolis that the company's vice-president and general counsel had ordered him to arrange for the destruction of hundreds of documents relating to the safety of the Dalkon Shield, and that some papers were burned in early



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February. This was just before a jury in Wichita made the first award of punitive damages to users of the device. In October of 1984, Robins filed a motion in United States District Court in Richmond, asking that all punitive-damage cases be consolidated into one class action, and urged women who were still using the Dalkon Shield to have it removed. In April of this year, company officials announced that they had set aside a six-hundred-and-fifteen-million-dollar reserve fund to pay for compensatory damages and legal expenses, but they acknowledged that this would not cover punitive damages or lawsuits brought by women in foreign countries who had used the Dalkon Shield. Congress Watch reported that other senators on the Commerce Committee had also received PAC contributions from members of the Product Liability Alliance and the Coalition for Uniform Product Liability Law. In addition to Kasten, who received nearly seventy thousand dollars, they included the committee chairman, Bob Packwood, Republican of Oregon; John C. Danforth, Republican of Missouri; Russell B. Long, Democrat of Louisiana; Barry M. Goldwater, Republican of Arizona; Ted Stevens, Republican of Alaska; Ernest F. Hollings, Democrat of South Carolina; Howell Heflin, Democrat of Alabama; J. James Exon, Democrat of Nebraska; Wendell H. Ford, Democrat of Kentucky; Larry Pressler, Republican of South Dakota; Slade Gorton, Republican of Washington; Donald W. Riegle, Jr., Democrat of Michigan; Daniel K. Inouye, Democrat of Hawaii; Frank Lautenberg, Democrat of New Jersey; and Nancy L. Kassebaum, Republican of Kansas. (Ironically, Hollings, Heflin, and Riegle have been leading opponents of Kasten's proposed bill. Indeed, Hollings has described the measure as "the snake oil of our day," claiming that it is "anti-consumer" and "probably unconstitutional.")

Considering the kind of money that was spread around the Commerce Committee, it should come as no surprise that it voted by eleven to five to report a version of Kasten's bill out of committee in March of 1984. (Senators Packwood, Hollings, Riegle, Heflin, and Lautenberg voted not to report the bill out.) During the autumn of 1984, Hollings and other opponents prevented it from coming to a floor vote by threatening to hold a filibuster, and in May of this year, an eight-to-eight tie vote prevented it from being reported out of committee. It will no doubt be reintroduced, and another close battle is expected in 1986. By drastically curtailing the present legal remedies of the victims of toxic substances, such as asbestos and DES, the bill would have the effect of institutionalizing the production of hazardous and defective products. In this way, it supplements the proposal of Senator Hart to deny asbestos victims their day in court, and complements the attempt of Manville and its insurers to employ the Bankruptcy Code as a convenient tool for compensating these victims at bargain rates for loss of their health and their lives. Thus, sweeping efforts to weaken the tort system and in effect grant immunity to manufacturers of toxic substances are gathering force in a land whose inhabitants, though they are supposedly more aware than ever of the dimensions of the occupational-and-environmental-disease problem, seem incapable of insisting that the present predicament become a national priority. As a result, the American people bid fair to repeat an ironic disaster of history—the one that is said to have overtaken the latter-day Romans, who continued to use lead vessels in the making of wine even after they had been warned that they might be poisoning themselves by doing so. In our case, it seems, we are being asked not only to ignore the warnings we have received about occupational and environmental cancer and other disease but to sanction an act of callousness followed by a perverse and stupid exercise in participatory democracy. We are being solicited by the private-enterprise system, as it is now constituted, to deny just compensation to tens upon tens of thousands of its victims, our fellow-citizens, and to become its accomplices in the destruction of the public health and therefore of our own.

—PAUL BRODEUR

(*This is the last part of a four-part article.*)

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Steger's processes 180 million eggs a year, making it one of the largest producers in Maryland. Its eggs are distributed to stores around the state within 48 hours of hatching.—*Baltimore Sun.*

Too late.

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NEATEST TRICK OF THE WEEK

[*From "The Wanderer," by Kahlil Gibran*]

That night the hermit lay upon his mat with his face earthward, and he wept bitterly and beat his hands upon his breast.

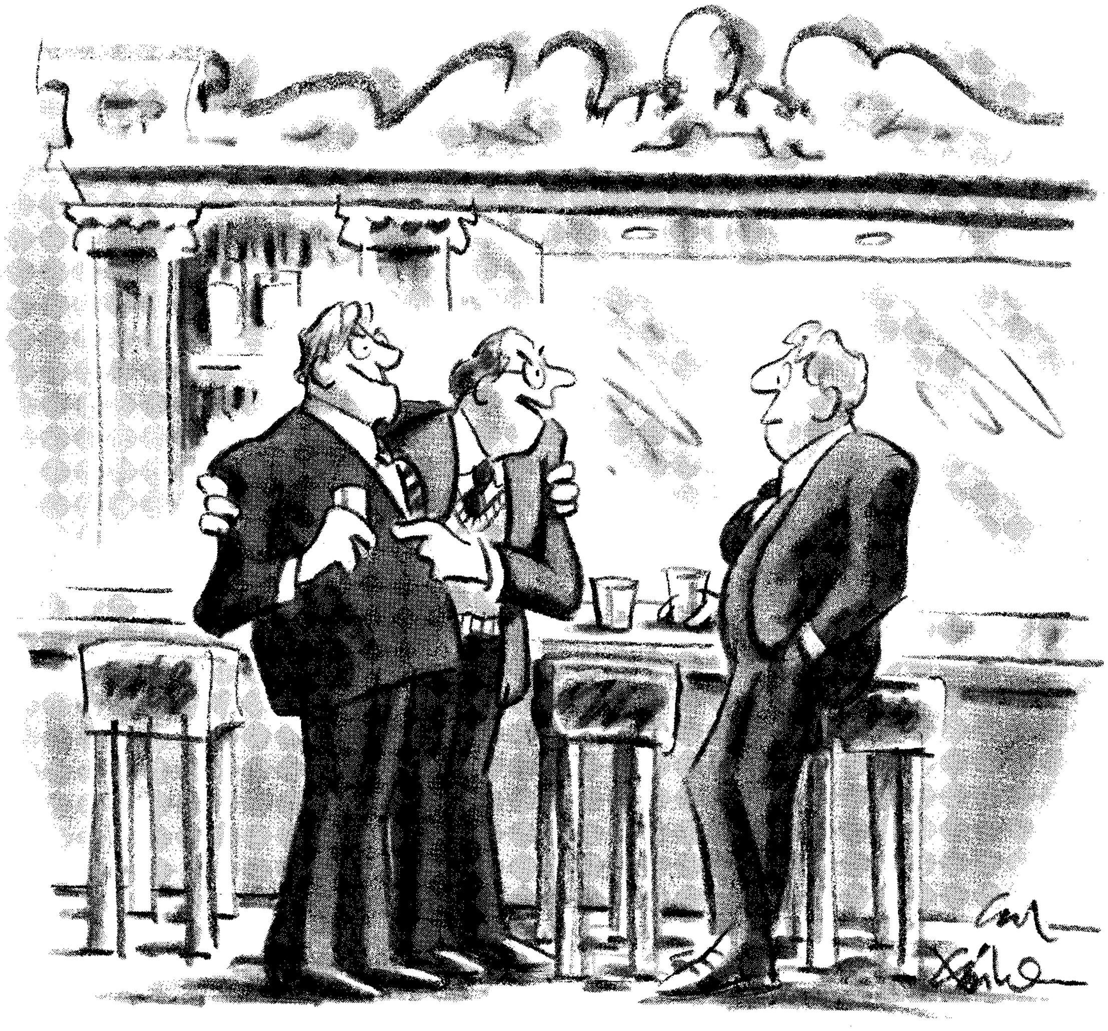
JAZZ

The Mulligan Sextet, Paul Gonsalves, and Bill Coleman

JAZZ began as a collective contrapuntal music whose many voices said the same things in endlessly different ways. In the late twenties and early thirties, this spontaneous counterpoint became frozen into big-band arrangements (only Duke Ellington somehow retained a feeling of free polyphony), and the first great jazz soloists appeared. Collective playing, increasingly static and studied, receded into the backwaters of Dixieland and the New Orleans revivalists, and the soloist, ensconced in the overstuffed arms of the big band, became champion. He is still champion, despite the killing, self-defeating garrulity of players like John Coltrane, and the various reactions to this garrulity which have set in. These first appeared in the mid-fifties, like second-growth woods. More than half a dozen groups based on a collective attack emerged, and they included the Dave Brubeck Quartet, the Modern Jazz Quartet, Bobby Hackett's Henry Hudson Hotel band, the Lennie Tristano Quintet, Charles Mingus's various groups, and the Gerry Mulligan Sextet.

Mulligan's sextet was evanescent. It lasted only from the middle of 1955 until the end of 1956, and it filled a lacuna in Mulligan's career between his pianoless quartets and his big band, which was assembled in 1960. The sextet consisted of Jon Eardley or Don Ferrara on trumpet, Zoot Sims on tenor saxophone, Bob Brookmeyer on piano and valve trombone, Mulligan on piano and baritone saxophone, Peck Morrison or Bill Crow on bass, and Dave Bailey on drums. Brookmeyer and Eardley had worked in Mulligan quartets, and Sims and Mulligan had played together off and on in New York and on the Coast. Morrison and Bailey sat in at a Mulligan rehearsal, were admired, and became part of the sextet. It is not clear where the idea of the sextet came from. Certainly Mulligan's quartet, which was formed in 1952 and was dependent on the mannerly, enveloping counterpoint of Mulligan and the trumpeter Chet Baker, contributed to it. And Mulligan must have listened to the complex, serpentine melodic lines that Lee Konitz and Warne Marsh were working out with Lennie Tristano, and to the early contrapuntal investigations of the Modern Jazz Quartet and Dave Brubeck. He may also have had in mind the old Adrian Rollini groups, which he relished. The result was a partly written, partly jammed music built on unison or free-flowing ensembles, solos backed by organ chords or Ellington melodic fragments, and a clear, uncluttered rhythmic pulse, not unlike Tristano's metronomic timekeeping. It was a swinging, densely textured music, and when the four horns took off at the end of a number for several choruses of collective soloing (far less staccato and far more melodic than the soloing of the ordinary Dixieland or New Orleans ensemble) audiences found themselves shouting and jumping. But Mulligan was a heady, restless man at the time, and because the public response was limited, or there weren't enough jobs, or he wanted to get on with other things, he dissolved the group.

Fortunately, the sextet went into the Mercury recording studios five times, and the results give a loose idea of what it sounded like. Three L.P.s, made from thirty-four numbers set down (including alternate takes), were released in the fifties, and have long been out of print. PolyGram has reissued the best of them, "Mainstream of Jazz: Gerry Mulligan and His Sextet," and it has also issued, on "Mainstream of Jazz: Gerry Mulligan

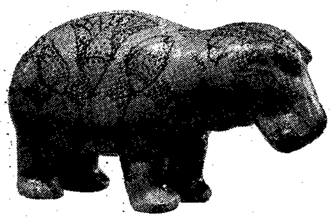


"He said he'd 'no longer brook' my insolence. I said he'd 'brook it or lump it.' Then we got so busy justifying our locutions that we decided we needed a few drinks."

and His Sextet," Volumes II and III, fourteen numbers never released before. The original "Mainstream of Jazz" remains a superior album. On "Ain't It the Truth," "Igloo," "Lollypop," and "Blue at the Roots," there are good contrapuntal ensembles, and on the first number Mulligan and Sims play a long and successful duet—a fresh approach that doesn't turn up anywhere else on the records. The two "Blues" in Volume II have some ensemble jamming, and so does "Demanton," which is based on "Sweet Georgia Brown." There are more glimpses of the group's collective work on "Broadway," in Volume III. The ardor and ease of Brookmeyer and Sims held the sextet together, and countered Eardley's stiffness and weak lip and Mulligan's tendency to keep trying to make indelible emotional statements. (Don Ferrara, a mysterious, high-lyrical player, appears only on four numbers, all done at the group's last recording session and included in the original "Mainstream of Jazz" album.) The longer the sextet went on, the hotter and more inventive it became. It's too bad Mulligan let it go; it hadn't finished its work.

THE tenor saxophonist Paul Gonsalves joined Duke Ellington in 1950, at the age of thirty, and stayed until his death, in May of 1974, nine days before Ellington himself died. Gonsalves became famous in 1956, when Ellington, closing the third Newport Jazz Festival, let him loose in his "Diminuendo in Blue" and "Crescendo in Blue," and Gonsalves, driven by a rocking, hypnotic Sam Woodyard beat, played twenty-seven choruses, which lifted the crowd to near-pandemonium and gave Ellington, who had been somewhat sluggish for several years, a boost that helped carry him through the rest of his career. It was a bravura performance that Gonsalves was forced to ape again and again (he once played sixty-six choruses), even though such flag-waving was contrary to everything he and Ellington stood for. Gonsalves, who was a unique distillation of Coleman Hawkins, Ben Webster, Don Byas, and Charlie Parker, was most comfortable at medium and slow tempos. (The Hawkins style, with its top-heavy tone and big vibrato, needs room to move in.) This is clear on a new and strange Ellington record, "Duke Ellington and His Orchestra: Featuring Paul Gonsalves" (Fantasy). It was made in New York on the afternoon of May 1, 1962, and all eight numbers are given over to Gonsalves. The session had apparently long been in Ellington's mind, and that is odd, because he had never allotted so much space to one of his soloists, and he never would again. So here is Gonsalves playing all the way through "C Jam Blues," with its many breaks, through "Take the A Train," through "Happy-Go-Lucky Local," and through "Caravan." Four of the eight tunes are fast or have fast sections, three are medium, and one is slow—a fine, languorous reading of Ben Webster's famous vehicle "Just A-Sittin' and A-Rockin'," in which Gonsalves plays a chorus of embellishments and a chorus of improvisation. "Caravan," in medium tempo, has a passage of the sort that jazz fans wait for in the way baseball fans wait for inside-the-park home runs, triple plays, and umpires being overruled. Gonsalves plays around the melody for the first sixteen bars, and at the bridge he shifts into another dimension. He goes into a kind of half time, and fashions a beautiful, full-blown song that has nothing to do with "Caravan" but floats serenely over it, a complete composition. It lasts just eight bars, and has the ethereal air of Jess Stacy's famous 1938 solo on Benny Goodman's "Sing, Sing, Sing." The Ellington band eventually had the same overweening effect on Gonsalves that it had on most of its star soloists; few broke away, and those who did generally came back, cowed by the outside world. Ellington should have urged his stars to continue doing small-band sessions under their own leadership, as they had done so frequently in the thirties and forties. These recordings at least made them feel they owned their own skins. They also produced some imperishable music. Ellington's nod toward Gonsalves' gifts on that May afternoon twenty-three years ago was gracious but double-edged: it benefitted the master as well as the servant.

FEW of the recordings made by the great expatriate trumpeter Bill Coleman in France in the thirties, when he was reaching the height of his powers, have been released here. This lamentable situation has now been eased by the appearance on the DRG label of "Willie Lewis and His Entertainers" and "Bill Coleman: Paris 1936-1938." (The cumulative neglect displayed by the big American record companies toward jazz is no



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different from the neglect once shown by the big American museums toward American art.) The Lewis contains twenty-three numbers, done between 1935 and 1937. Coleman is on fourteen, and he solos on nine. The second album has twenty numbers, by seven small groups, which include the likes of Stephane Grappelli, Django Reinhardt, Herman Chittison, and Tommy Benford. Coleman was an astonishingly consistent performer. He rarely repeated himself, he did not have many clichés, his beautifully constructed solos rose from limitless emotion. He is particularly resplendent on the Lewis on "Sweet Sue" and "Organ Grinder's Swing," and he is flawless on his own L.P. on the 1936 "After You've Gone," on "Hangover Blues," on "Bill Street Blues," on "The Merry-Go-Round Broke Down," and on "Big Boy Blues."

Another gap in the Coleman canon has been filled, by the release on Circle of "Sammy Price and His Blusicians." Made in New York in 1944 by a group that includes Coleman, Ike Quebec, and Oscar Pettiford, it contains eight numbers (plus alternate takes), half of which were first released over thirty years ago on a ten-inch L.P. The date is built around the ponderous boogie-woogie piano of Sammy Price, but it has pretty blues statements by Coleman on "House Rent Boogie" and "Boogin' A-Plenty." Time has not diminished Coleman's delicate ebullience.

—Whitney Balliett

•

Vic Rutkoski, Sr., of the artists' association that sponsors the show, said there will be $850 pieces of artwork this year by 255 artists.—*Vandergrift (Pa.) News-Citizen.*

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Maybe just moderately friendly would do.

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BLOCK THAT METAPHOR!

[*Glenna Syse in the Chicago Sun-Times*]

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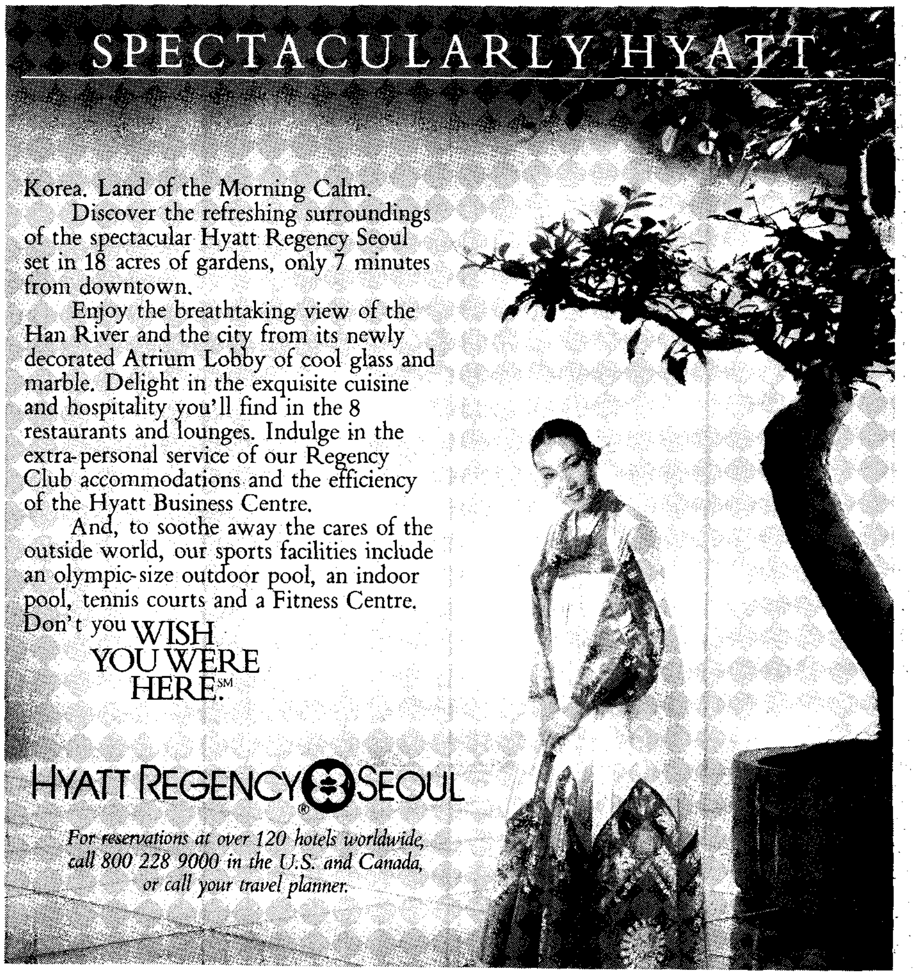

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THE CURRENT CINEMA

Ripeness

IF John Huston's name were not on "Prizzi's Honor," I'd have thought a fresh new talent had burst on the scene, and he'd certainly be the hottest new director in Hollywood. The picture has a daring comic tone—it revels voluptuously in the murderous finagling of the members of a Brooklyn Mafia family, and rejoices in their scams. It's like "The Godfather" acted out by The Munsters, with passionate, lyrical arias from Italian operas pointing up their low-grade sentimentality. The 1982 novel, by Richard Condon, is a lively, painless read. His riffs about the corruption of American business and politics have a rote paranoia—they have no sting—but the characters are entertainingly skewed, and the story moves along and keeps you smiling. The movie does something more. When it's over, you may think of slight resemblances to "Beat the Devil" and "The Maltese Falcon," but its tone is riper. The behavior on the screen is bizarrely immoral, but it has the juice of everyday family craziness in it. And the zest that goes into the Prizzis' greediest swindles is somehow invigorating. You'd think this movie the work of a young director because of the elation you feel while it's on, and afterward, too. Even "The Man Who Would Be King" didn't have the springiness that this has. The only thing about "Prizzi's Honor" that suggests a veteran director, or even hints at Huston's age (he's seventy-eight), is the assurance of his control. He directed this movie (his fortieth) on pure instinct—on the sum of everything he knows. It's as if his satirical spirit had become irrepressible—the devil in him made him do it.

Huston has a cast of devil's helpers, who have been coached in the jerky rhythms and combative dialect of Sicilian Brooklynese by the actress-playwright Julie Bovasso. She played John Travolta's mother in "Saturday Night Fever" and its sequel, and that's who they talk like. They sound like truculent trolls. As Charley Partanna, the enforcer (i.e., hit man) for the brotherhood, Jack Nicholson has added a facial effect: his upper lip puffs out and curls under, which thickens Charley's speech. (When he's fully in character, he's frog-faced and fishy-eyed, like a blown-up Elisha Cook, Jr.) Charley is a loyal and dedicated company man, but he's not too sharp; he's like a hardhat who's only good at his trade—he needs to be cranked up to think. And Nicholson's performance is a virtuoso set of variations on your basic double take and traditional slow burns. At times, Charley is like Jackie Gleason's vain Ralph Kramden in "The Honeymooners": he seems to want to waddle and shake more rolls of flesh than he's got. (Like Kramden, he wants to occupy a bigger space in the world.) Then he'll go limp and lacklustre, like Art Carney's Ed Norton. Nicholson's Charley plugs the "Honeymooners" kind of ordinariness into this Mafia world. And when he falls for a West Coast girl—a Polish blonde, Irene (Kathleen Turner), whom he meets at the Prizzi wedding that opens the movie—he's like a man conked out by a truckload of stardust. He's gaga. But Nicholson doesn't overdo his blurred expressions or his uncomprehending stare; he's a witty actor who keeps you eager for what he'll do next. There are reasons for audiences' good will toward him: he'll do anything for the role he's playing, and he has a just about infallible instinct for how far he can take the audience with him.

Charley's essential average-guyness is the movie's touchstone: this is a baroque comedy about people who behave in ordinary ways in grotesque circumstances. The Condon book is a takeoff on "The Godfather," and Huston follows it right down to putting a spin on the details (like the quick glimpse of the wedding couple, so you can see that the bridegroom is shorter than the bride), but the parody isn't too broad—not even with Nicholson's inflated upper lip complementing Brando's pushed-out lower lip. (In a scene in which Charley, the romantic clod, is told that he is to be the next head of the family, Nicholson produces a small, eye-rolling flourish: for an instant—a passing shade of thought—he sees himself as Brando, the don.)

The title is, of course, satiric. The movie is about what the Prizzis do in the name of honor. Old Don Corrado Prizzi (William Hickey) is a shrunken little man, ghouly and wormy, with tiny, shocking bright eyes. These slitted, almost closed eyes are so alive they jump out at you. (They're like the director's eyes—they're the soul of the movie.) At eighty-four, this slippery master chiseller snoozes most of the time, but he still runs the mob, and he's plotting his "monument"—a banking maneuver that should net the family some seventy million dollars. Hickey, an esteemed New York acting coach, actually in his fifties, hasn't had much in the way of movie roles in recent years and is probably best known for his appearances on "Barney Miller," as the old bum whose attitude toward everything was "It's O.K. by me." Hickey has always had a special energy, and his mock seriousness here is just what the mummified old don needs. Don Corrado can barely walk anymore (he shuffles), but he lives to rook people, and Hickey makes you feel the mean joy he takes in it. When the don wants to say something, he doesn't speak, exactly—he is so much into his own rhythms that he sing-songs his remarks. But age hasn't softened him. And an old don has an advantage that other oldsters don't have: when this little geezer gives orders to the members of his family, they obey.

Don Corrado's two sons are big men. The firstborn, Dominic (Lee Richardson), who's in his sixties, runs the dirty side of the operations; the younger, better-educated, and slicker Eduardo (Robert Loggia), who's in his fifties, handles the "legitimate" investments and mingles with financial leaders and high-ranking men in government. Richardson and Loggia play their roles just tilted enough for you to register what it's like for men Dominic's and Eduardo's ages to be dominated—still—by their father: it keeps all their childhood tensions going.

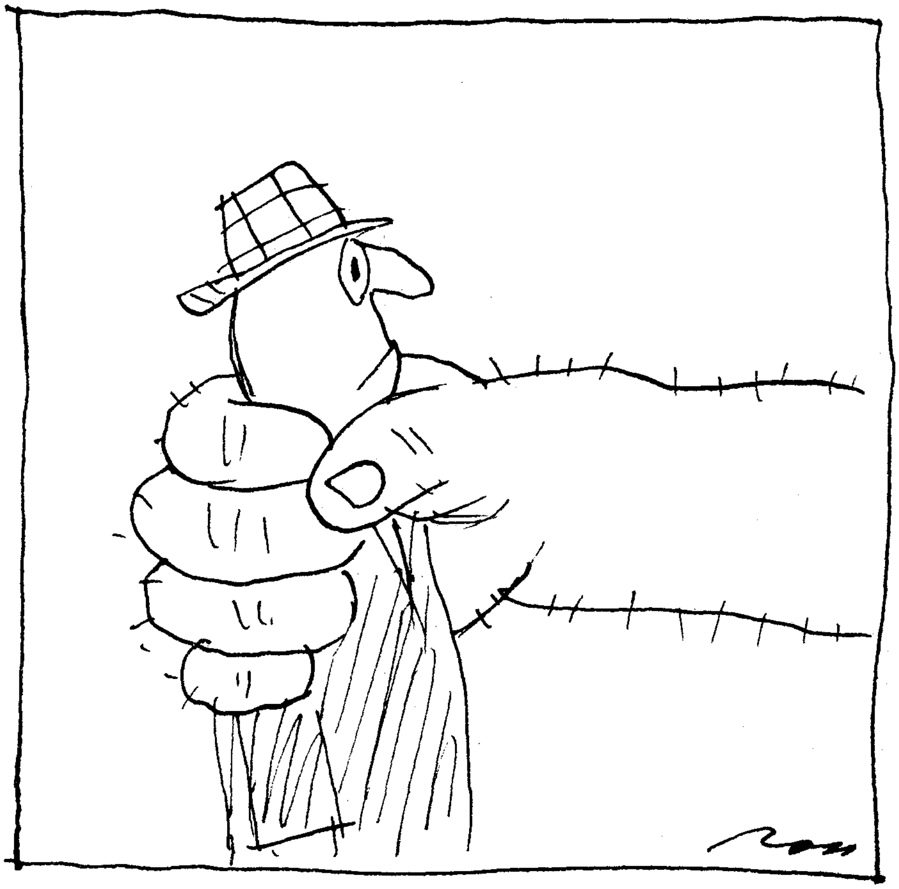
The member of the family who is closest in spirit to the tricky old don is his granddaughter Maerose (Anjelica Huston), whose eyes are never at rest, either. Dominic, Maerose's rigid-minded father, has made her a family outcast, because some years earlier, when she and Charley were engaged and got into a scrap, she took off in a drunken rage and had an affair. She has been exiled to Manhattan, where she works as an interior decorator, but she's as busy plotting as the don himself. As Anjelica Huston plays her, the raven-haired Maerose is a Borgia princess, a high-fashion Vampira who moves like a swooping bird and talks in a honking Brooklynese that comes out of the corner of her twisted mouth. Anjelica Huston seems to have grown into her bold features: she's a flinty beauty here—she has the imperiousness of a Maria Callas or a Silvana Mangano. And, with that Brooklyn cabbie's diction, and Maerose's fixation on vengeance against her father, Anjelica Huston is an inspired comedienne, especially when she parodies penitence and sidles into a room dolorously, her head hanging on her shoulder. The stunning Maerose loves scandalizing the family, and comes to the wedding—the bride is her younger sister—dressed in black, like a widow. Maerose has more in her face than anyone else has; she has irony and the strangeness of what's hidden. She's like a bomb ticking away in the background of the movie.

By contrast, Kathleen Turner's ravishingly pretty Irene seems pallid. Turner has built up a lot of audience good will, too, and she has her moments: Irene's intonations are hilariously ritualized when, after participating in a kidnap and a murder, she chirps "See you at dinner" to Charley and pecks him like a suburban housewife as he drives off with the kidnap victim. But her role doesn't really develop, and it suffers from an omission: Irene needs a scene to show the shift in her from the woman who's playing Charley for a sap—the woman who smiles to herself when she's got him hooked—and the woman who warms to the adoration of such a big man in the Mafia. (Charley is the kind of romantic who, after they've declared their love for each other, in a swank Mexican restaurant in L.A., takes note of what the orchestra is playing and says, "This is gonna be our song.") And Turner is at a disadvantage: Irene isn't from Brooklyn and doesn't have the chance to talk in the clan's comic lingo.

The central group is completed by Charley's father, Angelo "Pop" Partanna (John Randolph), who is the Prizzis' *consigliere* and Don Corrado's closest friend. As Condon described Pop, his "sweetness and amiable good cheer about murder and corruption were legendary in the environment," and that's how Randolph plays him. He's always beaming, and when he looks at Charley, the hit man, the crinkles around his eyes radiate all over his face: there never was a father who took greater pleasure in his son. When the two are together, we see the father-son relationship in its ideal form. These two confide in each other the way fathers and sons do in storybooks for boys. I don't think Randolph has ever done anything this mellow before: Pop is overflowing with happiness, and when, toward the end, the kidnap and killing (which are tied in with the banking maneuver) cause unforeseen troubles, the childlike anxiety in his face suggests a perturbed saint.

It's impossible to say who's happier—Pop, who dotes on his son, or Don Corrado, who has always had his own way. Or the audience. I found myself laughing all the way through. Though some people don't respond to the movie at all, laughter seems to bubble up in most of us. Probably that's because characters like Pop and the don are only slightly warped versions of other doting parents, other tyrants. It's the context of Mafia connivery that makes their happiness, like Charley's romanticism, seem blissfully silly. (Being a mobster appears to produce the same result as a lobotomy: some vital connection in the brain is severed.)

Huston has made a character comedy out of Condon's prankish satire of American corruption. He has been so confident and free that he has included moviemaking jokes, like the use of obvious stock shots of planes whipping back and forth across the country to represent Charley and Irene carrying on their coast-to-coast romance. The characters come equipped with certain eccentricities of the "environment," such as the habit—apparently developed among people who make inordinate amounts of money—of saying "a dollar" when they mean a thousand dollars. When they refer to seven hundred and twenty dollars, they're actually talking about heavy cash. Except for the failure to round out Irene's character, the script, by Condon and, later, Janet Roach (who worked on the structuring of the scenes), is a beauty, and the Alex North score, with its lush, parodistic use of Puccini, and some Rossini, a little Verdi, and a dash of Donizetti, too, actively contributes to the whirling texture of the scenes. Even the musical jokes that you're not quite conscious of work on you, and the music seems to bring out the lustre of Andrzej Bartkowiak's cinematography. Everything in this picture works with everything else—which is to say that John Hus-



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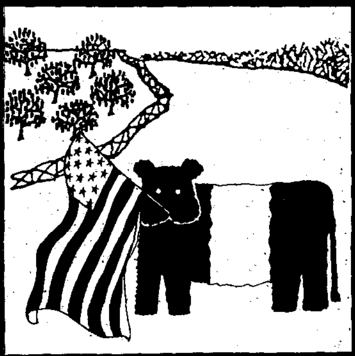

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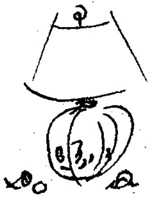

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ton has it all in the palm of his big, bony hand.

You can feel a prickly excitement in the theatre. It's the kind of excitement that makes you say, "God, I love movies"—or, at least, "God, I love this movie."

IT'S a different kind of love that Satyajit Ray's "Ghare-Baire," or "The Home and the World," brings out, but it's love all right. Adapted from a novel that Rabindranath Tagore wrote in 1912 (Ray prepared a script for it in the forties, long before he made his first film, "Pather Panchali"), it deals with a great modern subject that has come up in Ray's work over and over: the emancipation of women, and what it does to them and to the men who love them. This is central to "Ghare-Baire," which is the story of the emergence of a young wife from the seclusion and ignorance of purdah into the complexities of becoming more fully human—or, at least, adult—and having choices. The core situation is much like the one in James Joyce's play "Exiles"—the husband, in his pride, wanting the wife to be free to be faithful—but that's only the film's starting point.

Victor Banerjee (the Dr. Aziz of "A Passage to India") is Nikhil, a maharajah in Bengal with a Western education and liberal views. His wife, Bimala (Swatilekha Chatterjee), is conventional in her beliefs, and is content to live in the women's quarters of his palace and be visible to no man except him. But he loves her and is proud of her, and wants her to be a modern woman, able to move in the world. She first saw him at their wedding: how will he ever know whether she really loves him if she doesn't have the opportunity to choose him—to prefer him to other men? For ten years, Bimala is taught by an English governess and encouraged to think for herself and develop her creativity. At last, in 1907, Nikhil persuades her to take the momentous walk with him down the corridor that leads from the women's apartment to the main rooms of the palace. There, in the drawing room, he introduces her to his friend the handsome, fiery radical Sandip (Soumitra Chatterjee, the Apu of "The World of Apu," and a principal actor in eleven other Ray films). And then the refined, uncoercive Nikhil watches passively—helplessly—as she becomes enthralled by Sandip's cocksure masculinity and his revolutionary rhetoric.

The movie is about the destruction of the marriage, and the riots and bloodshed caused by Sandip's terrorist supporters. It's a large theme—a double tragedy, in the home and in the world—presented in a formal style that owes almost nothing to the conventions of American or Western European films. The screen frame is almost square, and the scenes—most of them inside the rooms of the palace—are in deep, glowing colors. The main characters talk, and the camera just stays on them and waits until they finish, yet these conversations develop a heart-swelling intensity. In a sense, the method is like that of amateur moviemakers who think that all they *need* to do is put actors in a room and photograph them reading their lines as if they were on a stage. The difference is that Satyajit Ray, who has been making movies for thirty years, didn't start with this simplicity—he *achieved* it. His approach—the intimacy of his focussing on the actors in their setting—may be influenced by Ozu or late Dreyer, but it isn't remotely austere or ascetic. India takes care of that.

When you're inside the palace, there's a lot of India outside the windows. The home and the world are interpenetrating metaphors. The interiors seem to be lighted through stained-glass windows, and the colors, the fabrics, the way the actors move—everything is erotic, ambiguous, in the process of being transformed. The richness of the performances—those of Victor Banerjee and Swatilekha Chatterjee in particular—and the colors and textures of the interiors are like an electric field. The conversations in golden light and shadows have their own kind of voltage. You watch these graceful people in draped garments in their lethargic, patterned décor, and everything in the country seems draped, hanging, defeated—and hectic, too.

The story takes place during the chaotic aftermath of Lord Curzon's partition of Bengal into Muslim and Hindu states, when the nationalist movement that Sandip is part of is trying to impose a boycott against all foreign goods (by claiming that imports are at the root of Indian poverty). Yet Bimala is becoming educated—becoming free—by imbibing English traditions. When this Indian woman sings, in English, the song that she has been taught by her governess—"Tell me the tales that to me were so dear, Long long ago, long long ago"—the confusion of cultures is insanely poignant.

Bimala is girlish and coquettish in the early scenes in the women's quarters, and part of the fascination of the movie is that Swatilekha Chatterjee grows with her role, and becomes more absorbing the longer you see her. She's not a mere ingénue; she's a full-bodied, rounded beauty, and her Bimala has an earthy, sensual presence. But Bimala and Nikhil obviously have no children, and we don't see them in passionate embraces, either. Nikhil's love for her seems more spiritual than physical.

For much of their ten-year marriage, each time Nikhil suggests that Bimala leave purdah behind she looks down, smiling defensively. It isn't her compulsion; it's his. She doesn't want to come out of the women's quarters—all incense and silks, Arabian Nights cushions and English bric-a-brac. The rooms are stuffed—surfeited—with treasures; Bimala seems to emerge from inside a jewel. Maybe it's because the drive isn't hers that she's so overwhelmed by Sandip's fervor, and so easily taken in. Nikhil could guide her—could explain what the boycott is doing to the poor in the area. But he wants her to wise up by herself; he wants her to jump over the giant hurdle of growing up in ignorance, and see through the political line of a messiah like Sandip. He tells her to use her "woman's intuition"—surely the last thing she should trust in making a choice between his passive principles and Sandip's ruthless magnetism. This gracious, recessive maharajah (with zero carnality) is the innocent one.

Nikhil seems almost to will the destruction of his marriage. We never get inside his kindness, his virtue, his high-mindedness—or his weakness. Yet this doesn't seem a defect in the film but, rather, part of its richness and its mystery. Toward the end, Bimala, who was wheedled into independence by her husband, becomes desperate to express that independence—recklessly, heedlessly. When it comes to truthfulness about women's lives, this great Indian moviemaker Satyajit Ray shames the American and European directors of both sexes.

—PAULINE KAEL

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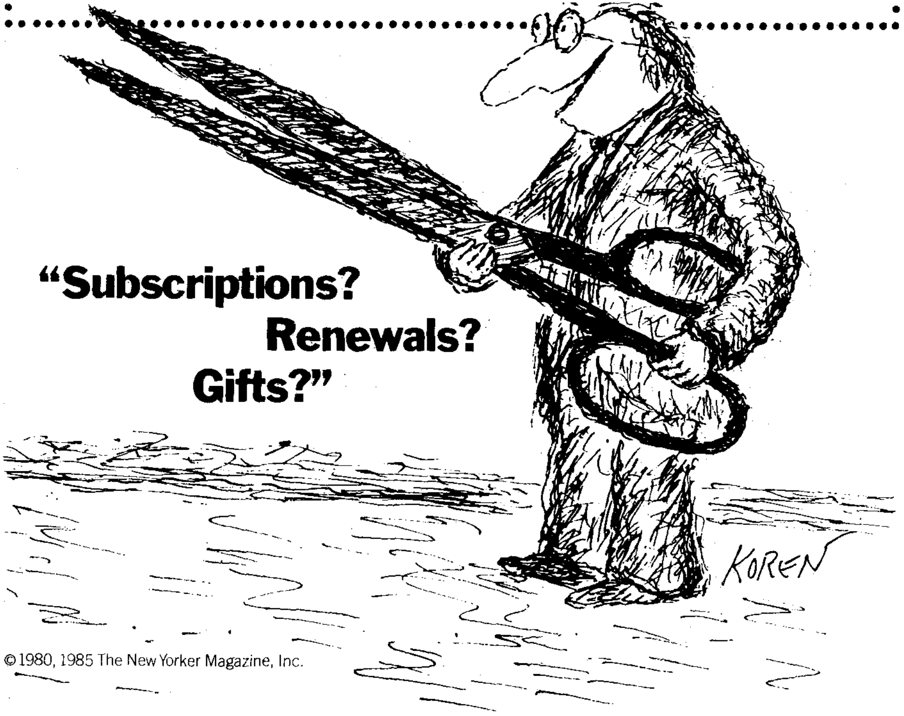
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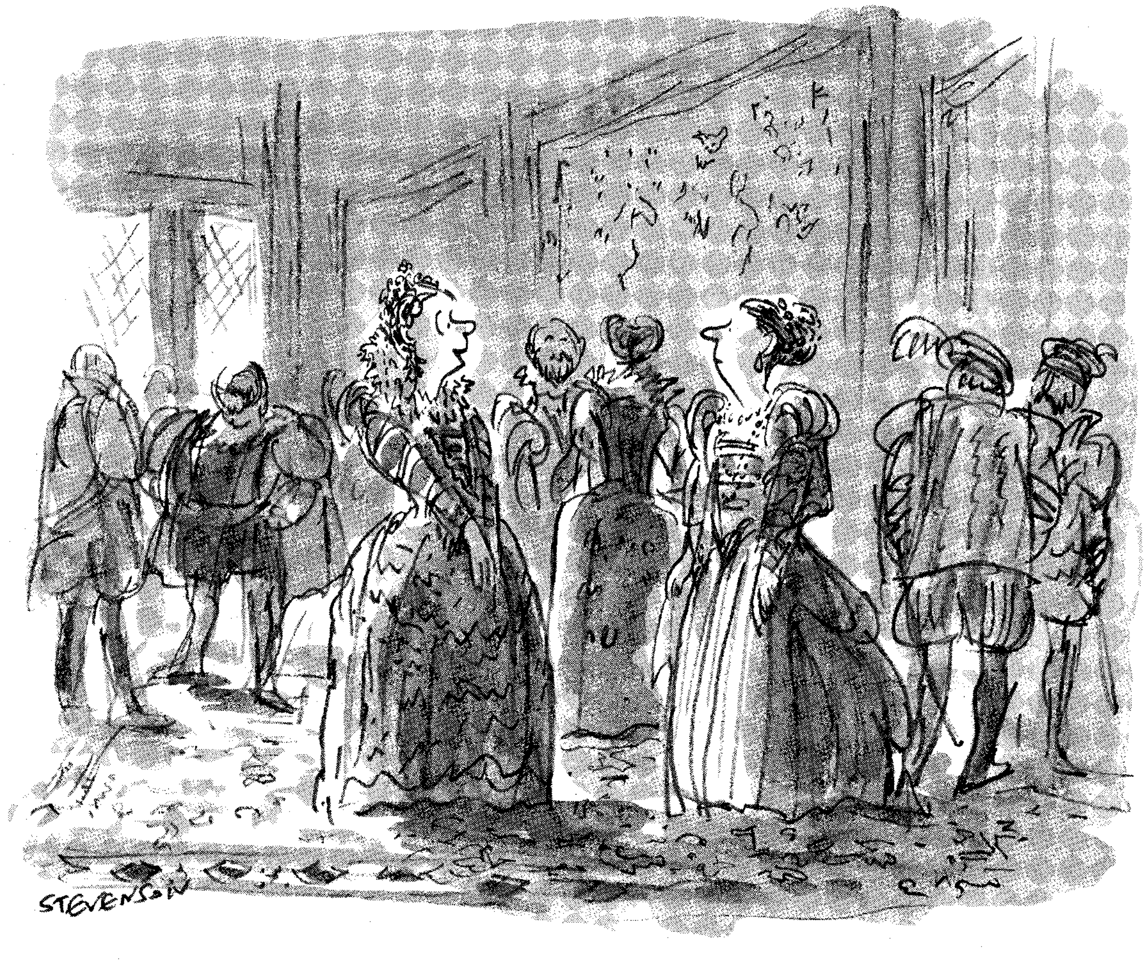
MUSICAL EVENTS

Beside the River and Into the Trees

ST. LOUIS, that handsome, tree-rich city beside the Mississippi, is an agreeable place. As in Edinburgh or Salzburg, a visitor, whatever his special interests may be—buildings, plants, pictures—finds that there is more to do and explore than there seems to be time for. After a dozen visits there, I still have a list of "things to do next time." (And each year has also brought something new. Sullivan's Wainwright Building and C. Howard Crane's fabulous Fox Theatre have been restored to life; now it's the turn of the grandly romantic Union Station.) Meanwhile, the Opera Theatre of St. Louis, which plays in a small, pleasing 1966 theatre, the Loretto-Hilton, set on lawns aflicker with fireflies, continues to offer some of the most satisfying opera performances in the country. In its tenth season, just ended, it maintained the successful pattern of recent years—a Mozart, two (or more) uncommon operas, and one standard piece—with unusually adventurous and varied fare. There were twenty-five performances in the course of a month. The Mozart was "Idomeneo," the standard piece was "The Barber of Seville," and two full-length operas composed for the company—Minoru Miki's "Jōruri" and Stephen Paulus's "The Woodlanders"—had their world premières. Both were conceived by, have librettos by, and were directed by Colin Graham, the artistic director of Opera Theatre. In the progress of twentieth-century opera, Graham is an important figure: a stage director who has played an increasingly creative role as ideator, collaborator, mentor, and animator. In London, at the English National Opera, his powerful productions of Janáček's "House of the Dead," Britten's "Gloriana," and Prokofiev's "War and Peace" were particularly influential. He collaborated with Britten on the formation and presentation of "Noye's Fludde," the three Church Parables, "Owen Wingrave," and "Death in Venice." As a director of the English Music Theatre Company, he commissioned new pieces. His work in America builds now on those foundations and has its own continuity.

Miki's earlier opera "An Actor's Revenge" was commissioned by Graham for the English Music Theatre Company and was first performed in London in 1979. It was done in St. Louis two years later, and by then Miki and Graham were already working on a successor. "An Actor's Revenge" is a Kabuki opera: the protagonist is a Kabuki actor, and the "real-life" drama in which he is involved is played out within Kabuki conventions. The librettist was the poet James Kirkup. "Jōruri" (the name of a medieval princess, adopted as a general term for the narrative ballad style in which her tale was told, while the Japanese characters can also mean "paradise") was inspired by Chikamatsu Monzaemon (1653-1725), who brought new refinement, realism, and poetry to the Japanese puppet play and was celebrated for his love-suicide tragedies. The characters are Shōjō, the old, blind master of a puppet troupe; his young wife, Otane; and young Yosuke, who both carves the puppets and animates them in performances while Shōjō chants the narrative. They are another Mark, Iseult, and Tristram. In a preface to the libretto, Graham notes that a conflict between *giri*, obligation or loyalty, and *ninjō*, human feelings, underlies Chikamatsu tragedy, and so it does this drama, which is not an adaptation from Chikamatsu but an original play, embodying some of his themes, conceived for music and for the modern theatre—and specifically for the all-in-one-room intimacy of the Loretto-Hilton. The action is as simple as that of Wagner's "Tristan," and the working is rich, subtle, and skillful. The basic style is the (comparative) naturalism of *sewamono*, or domestic drama. In each of the three acts there is also a Kabuki episode, as three supernatural vis-



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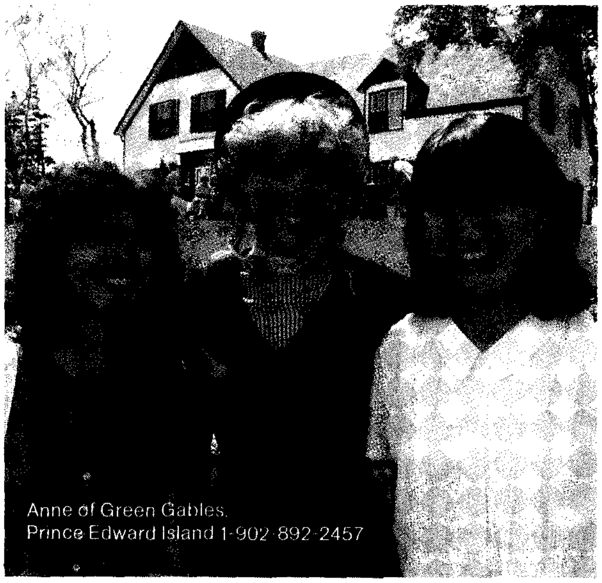

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The right choice.

itors—embodiments of memory or thought—come to Shōjō. The first is the tyrannical magistrate who blinded him as punishment when he intervened to save the child Otane from the magistrate's lust; the second Otane's jeering, mercenary mother; the third Shōjō's doppelgänger, come to debate with him once he has realized that his wife and his disciple love one another. There is an episode of *kyōgen*, comedy intermezzo, as three theatre assistants comment on and parody their masters' plight. And there are excerpts from three puppet plays. The first, "straight," introduces the troupe. The second, the rehearsal of a new play, is broken off when parallels to the real-life situation prove too painful. (The heroine is loved by a blind lord; Yosuke has carved the puppet as a likeness of Otane; later, Shōjō's fingers trace its features and sense the passion that went into the carving.) The third, the climax of a love-suicide tragedy—and at the same time the resolution of the opera—is enacted not by puppets but by Otane and Yosuke themselves. Like the characters they play, the lovers disappear into a waterfall, and Shōjō is left alone with us in the darkling theatre. The simple, ever-effective play-within-a-play device—as of "Pagliacci"—has become something subtler, more intricate, opaline. The contrasted dramatic styles are different kinds of metaphor which mysteriously act upon one another, light the central situation from different angles, and explore the shifting relationships between actors and their audience.

The influence of Japanese theatre upon Western theatre has taken many forms—in the work of Yeats, Brecht, Britten, Peter Brook, Peter Sellars. "Jōruri" embodies new, fine-grained Western responses to the formality, to the contrasts of obliquity and directness, to the startling changes of pace (near-static musing, sudden violence), to picturesqueness that serves poetic ends. Miki's score matches—animates, enacts—the drama at every point. He uses an orchestra of moderate size and three Japanese instruments. The movements of a *koto* (Japanese long zither) concerto provide the overture, the prelude to Act II, and, in Act III, a poignant interlude functioning like "The Walk to the Paradise Garden" in Delius's love-suicide drama "A Village Romeo and Juliet." A *shakuhachi* (bamboo flute) breathes the tenor of Shōjō's sad reflections. A twangling or thrumming *shamisen* (Japanese lute) accompanies the puppet plays. Of all the cross-culture composers, Miki has perhaps most successfully united Japanese and Western elements in a personal and highly expressive language. His musical training, in Tokyo, was Westernized; the assimilation of Japanese timbres and inflections came later. The score of "Jōruri" is notable for delicate, unconventional, affecting color combinations, for supple rhythms and pacing, and for eloquent melodic lines. In a program note, the composer writes of a melodic style growing from "the tone of speech inherent in Mr. Graham's libretto, fused with my kind of arioso singing." The music changes idiom to match the changing dramatic styles. The mother-in-law's scolding is pretty well a cabaret song.

Miki writes, too, of a presentation in which "the performers make use of their whole body and spirit in their burning desire to communicate with the audience." The St. Louis production—directed, as I said, by Graham, conducted by Joseph Rescigno, designed by Setsu Asakura, lit by Peter Kaczorowski, and choreographed by Onoe Kikushiro—was a marvellously communicative ensemble of song, instrumental sound, acting, and movement. Faith Esham, the Otane, looked exquisite and moved exquisitely, and her voice has become a flexible, beautiful instrument. John Brandstetter, the Yosuke, acted intently, sang well, and manipulated puppets with skill. Andrew Wentzel was a moving Shōjō. Mallory Walker was brilliant in the three Kabuki roles. The three assistants—John M. Sullivan, Gordon Holleman, and Stephen Kirchgraber—deftly played "invisible" assistants in the puppet episodes, similar roles (in a different dimension) within the actions of the opera proper, a sprightly *kyōgen* trio, and three lively individuals. At the performance I attended, the audience seemed spellbound, and at the close the silence that is the deepest mark of appreciation yielded gradually to cheers and a long standing ovation.

"The Woodlanders" is not quite as successful a work. Britten might have brought it off. Paulus's music, while sensitively and attractively made, is rather too conventional to give artistic verisimilitude to Hardy's otherwise bald and unconvincing narrative, and rather too modest to develop any strong life of its own. In rude summary, the plot reads much like that of an old opera seria: Grace Melbury, a country maiden

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gentrified by attendance at Cheltenham Ladies' College and a Continental finishing school, returns to deepest Dorset; she abandons her childhood sweetheart, Giles Winterbourne, for the fascinating Dr. Fitzpiers, whom she marries; when Fitzpiers deserts her and goes off with Mrs. Charmond, the lady of the manor, she takes up again with Giles; when Giles dies, she returns to her husband. It could all happen in real life, but Hardy, a peremptory puppetmaster, put the characters through their paces so abruptly that it is difficult to believe in them. E. M. Forster, in "Aspects of the Novel," says of the Wessex tales in general:

> Sometimes a plot triumphs too completely. The characters have to suspend their natures at every turn, or else are so swept away by the course of Fate that our sense of their reality is weakened. . . . Hardy arranges events with emphasis on causality, the ground plan is a plot, and the characters are ordered to acquiesce in its requirements. . . . His characters [Tess alone is excepted] are involved in various snares, they are finally bound hand and foot, there is ceaseless emphasis on fate, and yet, for all the sacrifice made to it, we never see the action as a living thing as we see it in "Antigone" or "Berenice" or "The Cherry Orchard." The fate above us, not the fate working through us—that is what is eminent and memorable in the Wessex novels. Egdon Heath before Eustacia Vye has set foot upon it. The woods without the Woodlanders.

Holst found stark, memorable music for Egdon Heath. Paulus's music for the woods is no more than mildly, gently descriptive, in a vein that recalls Delius without Delius's force of feeling. In any case, as an opera composer he must concern himself chiefly with the woodlanders. "Trees, trees, undergrowth, English trees! How that book rustles with them" was Forster's exclamation. Indeed it does. The scenes are vivid. But Hardy's endeavors to link the scenes with his characters' emotional progress can seem labored, even inviting of parody:

> The time was that dull interval in a woodlander's life which coincides with great activity in the life of the woodland itself—a period following the close of the winter tree-cutting and preceding the barking season, when the saps are just beginning to heave with the force of hydraulic lifts inside all the trunks of the forest. . . . It was dusk: there were no leaves as yet; the nightingales would not begin to sing for a fortnight; and the Mother of Months was in her most attenuated phase—starved and bent to a mere bowed skeleton, which glided along behind the bare twigs in Fitzpiers's company.

Graham's libretto and his staging begin promisingly. A semichorus materializes in a tree-filled scene—wood-

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landers who might be the trees themselves commenting on human actions that passed beneath their boughs. But the image is not sustained or pursued; the singers soon become stage gaffers. At other times, one glimpses again an opera Graham probably wished to create—for example, when Giles on his deathbed breaks into a simplified version of Hardy's poem "The Tree and the Lady":

> I have done all I could
> For the lady I knew!
> Through the heat shaded her
> When summer jaded her . . .

And the notion of Giles-as-tree chimes with Grace's vision of him: "He rose upon her memory as the fruit-god and the wood-god in alternation: sometimes leafy and smeared with green lichen, as she had seen him amongst the sappy boughs of the plantations; sometimes cider-stained and starred with apple-pips, as she had met him on his return from cider-making." (By this time, late in the novel, Hardy seems to be sharing Grace's view of Giles as "Autumn's very brother," sticky and fragrant with apple juice. When we first meet him, he is less romantically described: "A man not particularly young for a lover, nor particularly mature for a person of affairs—each of which functions he in some degree discharged.") But in the end librettist, composer, and performers alike seemed hampered by the sheer amount of plot that requires getting through. Changes of temper barely motivated even in the novel become a switchback scramble in the reduction for the stage. (The same is true in Peter Tranchell's Hardy opera "The Mayor of Casterbridge." I don't know Frédéric d'Erlanger's "Tess," which has a libretto by Luigi Illica; Edward Harper's brief, effective "Fanny Robin" uses only episodes of "Far from the Madding Crowd.") Graham has ingeniously worked in a good deal—probably too much—of the "Woodlanders" incident. The dialogue is largely in end-stopped blank verse, as in this first exchange between Mrs. Charmond and Grace:

> And so, you're back from
> Dorchester, my dear.
>
> Some weeks ago—how strange
> we've never met. . . .
> You must let me call on you some
> afternoon.
>
> I wish you would—this place depresses me,
> and soon I'll have to go abroad
> again.

For the "numbers," Graham adapts poems—by Chatterton, Shelley, Edmund Gosse—and folk songs that Hardy cites in the book, and also introduces Hardy poems freely rewritten (with results disconcerting to the extent that one knows the originals) either to fit the new situations or to eliminate Hardy's distinctive quirks of diction and metre. (Britten, in his cycle "Winter Words," found the apt music for Hardy's poetry.)

"The Woodlanders" is not an uninteresting or unrewarding opera, but I doubt whether the subject has brought out the best in Paulus. His three operas have all been written for St. Louis. The one-act "The Village Singer" (1979), after the story by Mary Wilkins Freeman, was fresh and masterly—an American opera with a universal theme and with a particularity of setting and local color reflected in the score. "The Postman Always Rings Twice" (1982), which Graham devised for Paulus, after James M. Cain, was classical tragedy reënacted in a low, steamy verismo setting, and it called for a composer who combines the raw passion of Mascagni with the compassionate vision of Alban Berg. Paulus's response was thoughtful and careful but not inspired. Something like James Fenimore Cooper's "The Spy"—a strong novel successfully dramatized the year after its publication—might be the right subject for him. Hardy's "The Woodlanders," Wessex-rooted, has a particularity both of local color and of speech patterns which seemed to elude him. One was left admiring not the work as a whole so much as many fluent, lyrical inventions and a generalized savoir-faire. Giles' aria that opens Act III (a setting of Gosse's "Two Points of View") left the strongest impression, and Giles' deathbed aria (its text compounded of Hardy's "The Voice" and "The Tree and the Lady") was also effective. Although Grace is at the center of the novel, Giles is the operatic character most consistently and fully rendered, and in James McGuire he had an interpreter admirably direct and credible. Mr. McGuire sang on the words and sang with candid feeling in a fresh, pleasing baritone that one might describe as still unspoiled by a voice teacher—natural, unforced, unmannered.

Carol Gale's Grace and Mark Thomsen's Fitzpiers were good but more conventional. Dan Sullivan's Mr. Melbury, Grace's father, was excellently clear. Lisbeth Lloyd's Mrs. Charmond was alert and lively. All

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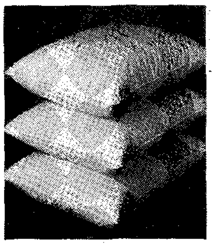

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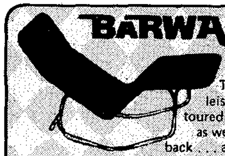

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did what they could to bring the roles to life. Cory Miller's Marty South—the working girl who never speaks her love for Giles—was movingly enacted and was sung richly, but in "rounded" tones in which all vowels were tinged toward "waw." Mrs. Melbury, the most congenial character in the book (she makes few appearances, but every one of them tells), is omitted in the opera. The gaffers—young men sporting white whiskers, painted wrinkles, and stage-old-man shuffles—let down Graham's reputation for shows in which all the movement carries conviction. There was perhaps too much open sky, not an oppression of clustering trees, behind Richard Isackes' basic set. Richard Buckley's conducting was confident.

"IDOMENEO" was done in my English translation, but that must not stop me from praising Robert Carsen's arresting and finely detailed production, which held many memorable images. His device of "framing" the opera as a ritual enacted in a modern Cretan village was unnecessary and added an extra level of unrealistic convention—remarkable that these fishermen knew their Mozart so well—but it was not disturbing, and it suited this theatre where the audience, seated on three sides of the stage, can seem an extension of the chorus. There was a strong cast—Michael Myers (Idomeneus), Patricia Schuman (Idamantes), Sylvia McNair (Ilia), Ashley Putnam (Electra), John LaPierre (Arbaces, arialess but allowed his poignant recitative), and Hans Gregory Ashbaker (the High Priest)—and an excellent chorus, trained by Donald Palumbo. John Nelson's conducting was deft, but the orchestral playing, by members of the St. Louis Symphony, was disappointing. The Loretto-Hilton pit is unhappily deep: the instrumentalists cannot see and, I imagine, can hardly hear the singers with whom they are making music. —ANDREW PORTER

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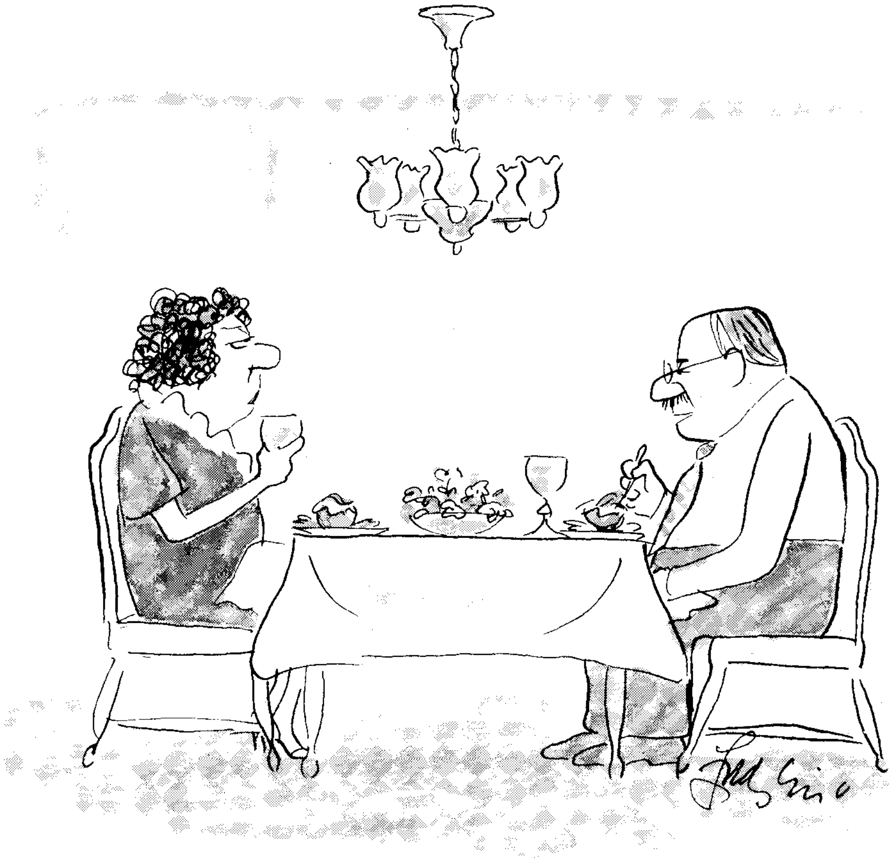
IN a foreword to "Eisenhower: Soldier, General of the Army, President-Elect 1890-1952," which appeared in 1983, Stephen E. Ambrose described the kind of biography he has now carried through to completion in "Eisenhower: The President" (Simon & Schuster; $24.95). Mr. Ambrose, a historian who has been an editor of the Eisenhower papers, told us that although Eisenhower worked with the greatest statesmen and soldiers of his era and participated in some of the most important events of the twentieth century, the book was to be a life rather than a life-and-times. He also described the kind of man Eisenhower was: "great and good"—the product of a family, a time, and a place that aimed to raise "men who were remarkably effective doers with a strong sense of duty and responsibility . . . successful managers." Eisenhower and his brothers "accepted the world as they found it and worked with the tools at hand to make it run better, not differently." This assessment is less patronizing than it reads, for in these two volumes we learn to appreciate that making things run as well as Dwight Eisenhower did took talents of a very high order.

Eisenhower had formidable natural endowments: exceptional intelligence, almost inexhaustible vitality, charm, and good looks. He had a fierce temper, which he struggled to control. One way he learned self-discipline was through team sports, which channelled his assertiveness and his ability as a leader. The distance he was to travel in his life, starting with his departure in 1911 from Abilene, Kansas, for West Point, was as unimaginable then as were the changes in his country, its rise to world power, and the enormous scale of the organizations he headed. I think that he and many Americans who, like him, moved from small, homogeneous communities and local enterprises to international capitals and global institutions used the concept of the team and teamwork—of the voluntary unification of people of disparate talents and backgrounds to concentrate on a goal—as a model for organization and leadership. Eisenhower was a team player before he became a team leader. In his first volume, for example, Mr. Ambrose tells us that just after the First World War Eisenhower and an Army acquaintance, George Patton, thought of a new way to use tanks, whose offensive possibilities had been independently discerned by a few foresighted junior officers in several of the world's armies. These bright young men were either ignored or punished when, like Eisenhower and Patton, they published their ideas in professional journals. Mr. Ambrose contrasts the response of the Englishmen J. F. C. Fuller and B. H. Liddell Hart, who defied their superiors and resigned their commissions, with that of Eisenhower, who submitted to a reprimand from the Chief of Infantry and agreed to publish no more articles proposing his heretical notions—notions that became the orthodoxy of the Second World War. When, during his Presidency, Eisenhower was criticized for being insufficiently concerned about American military security—and, especially, for not spending enough money on the armed forces—few things angered him as greatly as the congressional testimony and public protests of his Chiefs of Staff arguing for more: they were disloyal to the team. Mr. Ambrose mentions, too, that Eisenhower objected not to Robert Oppenheimer's having opposed our building the hydrogen bomb but to his refusal to coöperate when President Truman decided against him; what Eisenhower found "inexcusable," Mr. Ambrose says, was that Oppenheimer "did not get on the team."

Eisenhower's leadership, Mr. Ambrose points out, resembled coaching. As a youthful officer, Eisenhower was, in fact, a valued coach, and one year was trapped in an uncongenial assignment because his commander wanted him to lead the troops to victory in football. As a coach, a general, and a President, he sought to elicit the best from his team, and deliberately shared the limelight with his players. His technique of leadership, which stressed the contributions of all the individuals in the group, may be responsible in part for the underestimation of him by some of his contemporaries and by many historians—a misassessment that, Mr. Ambrose notes, is only now beginning to be corrected. Mr. Ambrose continually clarifies Eisenhower's style of leadership; for example, he explains that when the Presi-



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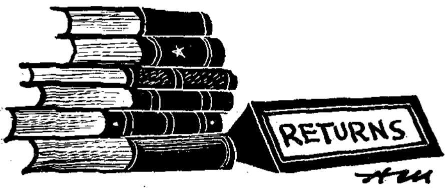
dent invited influential Americans to dinners at the White House he allowed his guests to suppose that he was consulting them when in reality he was persuading them by giving them the impression that he solicited their views. Only a few intimates knew what the archives reveal: he firmly trusted his own judgment, made policy, and oversaw its execution.

Eisenhower was never underestimated by his superiors in the Army. Between the wars, commanders seized upon him with avidity and relinquished him with reluctance; personalities as diverse as the intellectual Fox Conner, the flamboyant Douglas MacArthur, and the reserved George Marshall found him a nonesuch. Mr. Ambrose, by the way, does not think that this valued subordinate was brilliant in his first independent combat command, leading the Anglo-American descent on North Africa in 1942. He points out the flaws in the conduct of that campaign but also demonstrates that Eisenhower did not repeat his mistakes. His leadership in Europe was much surer and his military judgment superior.

At the outset of the second volume, Mr. Ambrose tells us that he sees two clear failures in the Eisenhower Presidency. One is that the President did not challenge Senator Joseph McCarthy directly. By implication, Mr. Ambrose disagrees with Fred I. Greenstein, a political scientist who, in "The Hidden-Hand Presidency: Eisenhower as Leader," argued that Eisenhower's backstage opposition to McCarthy undermined the Senator's power. What remains of the McCarthy to-do, Mr. Ambrose reminds us, is a dubious legacy: in defense against a McCarthy fishing expedition, Eisenhower put forward a claim of executive privilege more inclusive than any in our history. Eisenhower's second mistake, in Mr. Ambrose's opinion, was his refusal to endorse explicitly the Supreme Court's decision in Brown v. Topeka and to lead the movement for school desegregation. At the end of the volume, Mr. Ambrose notes another failure: Eisenhower did not succeed in his ambition to modernize the Republican Party. Though he shared a Republican stereotype of Democrats as disorganized and extravagant, he did not revoke the New Deal. Indeed, his Presidency consolidated it, and in a few areas sought to extend its purposes. Eisenhower had far-reaching plans for soil and water conservation, but only the soil-bank program got through Congress. He proposed that the federal government guarantee private health-insurance policies as a way of providing broad and affordable medical care; the American Medical Association opposed him, and the Republican Old Guard defeated him in Congress. He had also absorbed enough of the New Deal to understand that his interstate-highway program could be speeded up to help cure recession. However, his principal interest was foreign policy, and Mr. Ambrose convinces me, at any rate, that Eisenhower was usually wiser than his contemporaries and colleagues, although—this seems to me a failure—he did not directly share his wisdom with the public. Mr. Ambrose demonstrates that we owe to Eisenhower's efforts eight years without an engagement in armed conflict. He shows Eisenhower fighting off pressure from within his own Administration for military intervention in crisis after crisis. When Eisenhower turned to the public, however, he did not explain. The now largely forgotten hullabaloo in the mid-fifties about two tiny Chinese islands, Quemoy and Matsu, was a crisis that seemed to threaten war and American use of atomic weapons. In fact, Eisenhower opposed their use. In the summer of 1945, he had advised both Secretary of War Stimson and President Truman against dropping atomic bombs on Japan. His method of disengaging without dishonor in 1954-55, however, was to leave the Chinese Communists uncertain of his intentions; unfortunately, he also, as Mr. Ambrose puts it, confused more than clarified his actions and intentions for Congress and the public.

Eisenhower's design in foreign policy is familiar. Like many people in all the Allied countries at the end of the Second World War, he hoped that the Russians would remain our allies in peace, but after his hopes for a continuation of the war's grand alliance waned he concentrated on forging a Western alliance. Both as the commander of NATO and as President, he pressed for European unity in economic and political as well as military terms, and for American aid under a mutual-security program. He hoped that within a decade Western Europe would be able to assume its own defense. The Republican Old Guard disliked this program and distrusted our allies, although they apparently did not foresee the problems that arose; for example, France's "blackmail"—the word is Mr. Ambrose's—in insisting on our support of French efforts to reconquer Indo-China in return for coöperation in Europe. Then, too, Britain and France in building their independent nuclear capabilities did not share—and sometimes upset—Eisenhower's timetable for nuclear disarmament.



A review can barely suggest the riches of this biography, its readability, and its discrimination in evoking the recent past. It offers the beguiling mixture of nostalgia and illumination we find in old newsreels, along with an abundance of themes for reflection. I am impressed by Eisenhower's efforts at disarmament. He seems to have been one of the first world leaders to recognize that a long-continued arms race would severely injure—indeed, cripple—our nation's economy. The President whom Mr. Ambrose quotes as saying in 1960 "We are now scratching around to get money for such things as school construction . . . road building. There are all sorts of things to be done in this country . . . I see no reason why the sums which now are going into these sterile, negative mechanisms that we call war munitions shouldn't go into something positive" seems to speak to the preoccupations of the nineteen-eighties. Few of his contemporaries shared his concern. The Democrats were as bellicose as the Republicans, whom they regarded as isolationist skinflints. Until the Johnson Administration began to overstep the limits of the possible, Americans do not seem to have asked themselves if the United States could afford indefinite amounts of guns and butter. The story of the failure of Eisenhower's efforts at disarmament illuminates some of the complexities of that urgent issue. As I have mentioned, there was the element of our allies' needs, which did not invariably coincide with ours; and Russian foreign policy during the Eisenhower Presidency was disgraceful—it frequently resembled a carefully constructed series of nasty practical jokes. Eisenhower contributed to his failure by his lack of candor. He preferred to keep—and sometimes to manufacture—secrets. I think his decision to develop the C.I.A.'s capabilities for covert action as an economical way of countering Soviet dirty tricks was mistaken for several reasons. For one, it was not economical. By 1957, the agency was costing a billion dollars a year and was not amenable to direction. It had become a Republican's model of a New Deal agency—slipshod and spendthrift. Then, too, its successes that pleased Eisenhower now look ironic: overthrowing Mossadegh in 1953 gave us Khomeini thirty years later. We probably do not know enough to meddle successfully; and, more important, secret meddling increases the areas in which the American public remains uninformed. Foreign and military policies traditionally and legitimately demand some areas of secrecy, but we imperil democracy if our leaders befuddle us as well as our enemies. Eisenhower's willingness to misdirect us, as if we were outsiders and not his team players, was certainly a reason that he could not rally large-scale support for disarmament.

Though his efforts came to naught, his seriousness impresses me. Our century has been trying to teach us lessons we are reluctant to learn, because they are so greatly at odds with the human past and with human nature. For one example, the lesson that war no longer pays. Mongol accounting would probably have found that the sack of Baghdad in 1258 showed a profit, but the Iranians have already spent more than they could ever gain if they were to duplicate that victory. Controlling the urge to strike those we hate is a tall order. You could say that it means making things work differently. It is particularly interesting that the need for such control was appreciated by a man with a monumental temper.

—NAOMI BLIVEN

BRIEFLY NOTED

FICTION

OPENING NIGHTS, by Janet Burroway (Atheneum; $16.95). A fine and complex novel, a comedy and then some, which has a divorced and remarried theatre director leaving his young wife in New York for seven weeks when a Georgia college with a new, grant-funded theatre selects him for its inaugural production, of Eduardo Manet's outrageous black comedy "The Nuns." No matter that his ex-wife will be the costume designer. The story begins with a hasty burial, in a back yard, and has the reader sitting through rehearsal after rehearsal of a play about interment and disinterment—about life imitating art. Badly buried secrets crop up throughout the seven weeks, not only in this "cracker-academic backwash" (as the costume designer, a salaried and tenured resident, feels qualified to call it) but in New York and points north and east, where the wife behaves out of character while awaiting the cue to fly south for the final dress rehearsal, on a Friday the thirteenth. Meanwhile, the reader has been a witness to a series of backstage projects, including one involving a pampered iguana, that show how a play is produced: from memories and superstitions as well as from tangible materials. There is a nice moment when the costume designer, who has recently noticed how, as if in some chemical reaction, love converts anger to pain, "for storage," fondly (more fondly than she yet knows) watches a carpenter make fake rocks out of plastic: plastic, which comes from petroleum, which comes from rocks.

GENERAL

SECRET GARDENS: THE GOLDEN AGE OF CHILDREN'S LITERATURE, by Humphrey Carpenter (Houghton Mifflin; $16.95). The Golden Age, according to the author of this penetrating study, began in the eighteen-sixties, when, within a few weeks of each other, two eccentric English clergymen began creating the first classics in modern children's literature: "The Water-Babies," by Charles Kingsley, and "Alice's Adventures in Wonderland," by Charles Lutwidge Dodgson, who signed his book Lewis Carroll. It came to an end in 1930 or thereabouts, when A. A. Milne stopped chronicling the adventures of Winnie-the-Pooh. The years between saw the publication of George MacDonald's fairy tales, of Kenneth Grahame's "The Wind in the Willows," of Barrie's "Peter Pan," and of the long series of miniature masterpieces by Beatrix Potter. That this outpouring of genius was no accident is Mr. Carpenter's basic theme. He believes that these writers, nearly all of whom were of a quietly revolutionary bent, were responding to the absolutes of Victorian society, and were seeking to set up other, desirable worlds—Enchanted Places, Never-Never

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**From Bill Fine "Travel & Leisure"*

Lands, Secret Gardens—in which a child could fancy himself freed from the solemnities of the paternal household, the moral strictures of the church, and the imperatives of "correct behavior." Some of this was achieved by creating environments in which nonsense ruled or in which little animals did exactly as they pleased; all of it, he insists, was subtly anti-Christian, anti-establishment, and even—and especially in the work of the clergymen—anti-God. In other words, these writers fashioned, under the noses of the Victorians, a badly needed counterculture. Photographs.

NOTE: Alex Shoumatoff's "The Mountain of Names: A History of the Human Family," has been published by Simon & Schuster ($17.95). Some of the contents originally appeared in *The New Yorker.*

MYSTERY AND CRIME

MAIGRET BIDES HIS TIME, by Georges Simenon, translated from the French by Alastair Hamilton (Harcourt Brace Jovanovich; $12.95). This choice *aventure de Maigret,* which here makes its American début, was written in 1965, and thus must be one of the last novels written by Simenon before his well-earned but regretted retirement. It offers two murders—one victim being a housebound cripple known to Maigret as a probable jewel thief and the other an elderly diamond cutter—and also the solution to a twenty-year string of jewel thefts. The first murder comes close to being a locked-room mystery—one of the few such to confront Maigret. The title refers both to the old jewel thefts and to Maigret's leisurely, meditative, beer-drinking approach to the murders. He discovers a good bistro in the neighborhood of the Arc de Triomphe, he discovers the diamond center on the Rue La Fayette at the Rue Cadet, and he finds a link between the present and the Nazi bombing of the railroad station at Douai.

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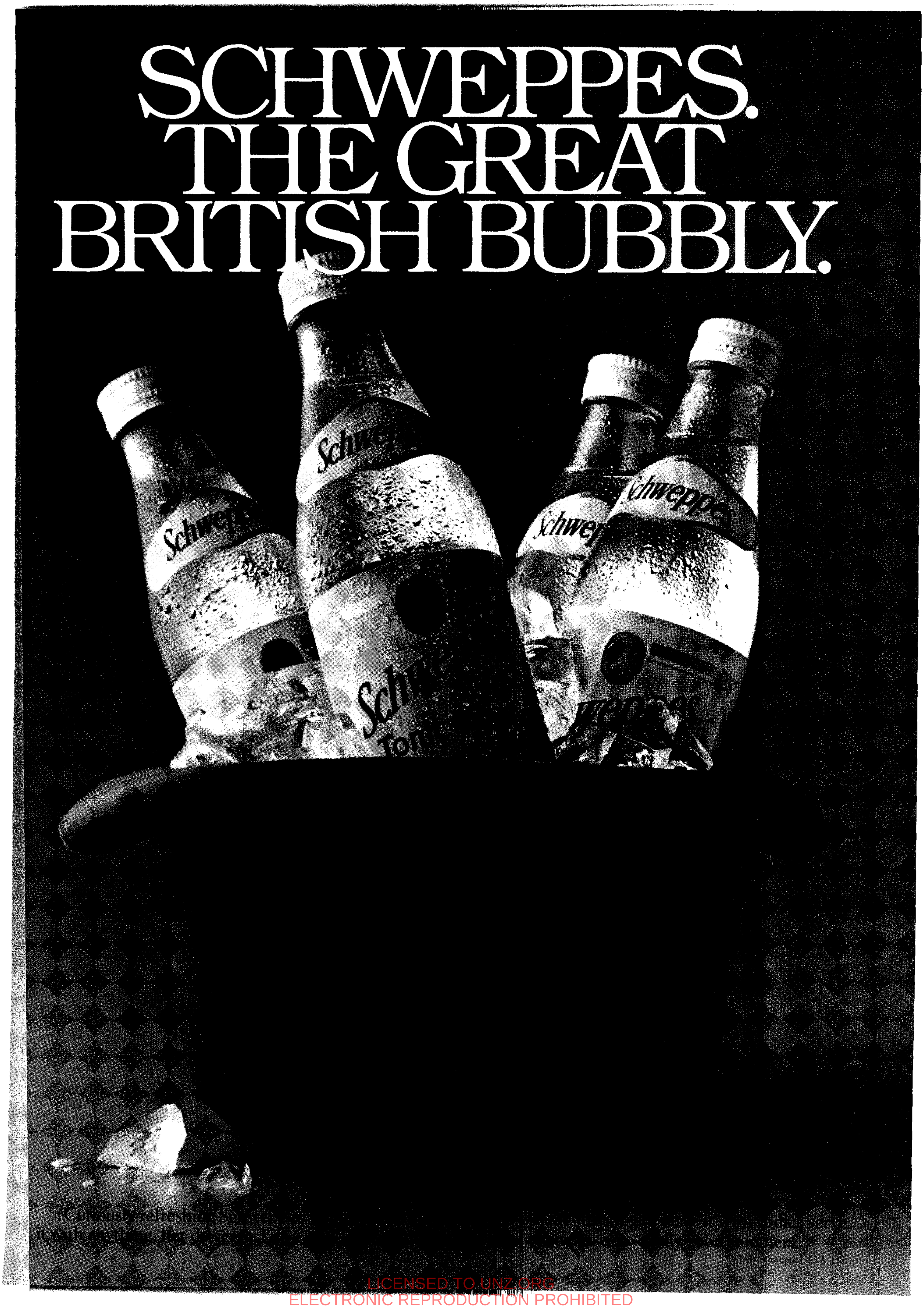

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